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ANCIENT LAWS OF IRELAND.

DIN TECTUGAD
[DIN TECTUGAD]

AND

CERTAIN OTHER SELECTED

BREHON LAW TRACTS.

PUBLISHED UNDER THE DIRECTION OF THE COMMISSIONERS FOR PUBLISHING THE ANCIENT LAWS AND INSTITUTES OF IRELAND.

VOL. IV.

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My Lord,

Having been requested by the Commissioners for publishing the Ancient Laws and Institutions of Ireland to edit such of the Brehon Law Tracts translated by the late Dr. O'Donovan or Mr. O'Curry as might be most suitable for publication, the Rev. Dr. T. O'Mahony and myself proceeded to prepare for the press the text and translation of the several Brehon Law Tracts contained in this volume.

The Rev. Dr. T. O'Mahony, in consequence of ill-health, was unfortunately obliged to retire from all connexion with the editing of this volume before he had finally revised the entire Irish text. I am much indebted to the kindness of Mr. W. M. Hennessy, who corrected for the press that portion of the original text which had not been finally revised by the Rev. Dr. T. O'Mahony.

The notes appended to the text, except mere references, were selected by the Rev. Dr. T. O'Mahony from those appended to the manuscripts of the original translators.

For the Introduction I am exclusively responsible.

The Index and Synopsis have been prepared by Mr. P. Bagenal.

I am, my Lord,
Your Lordship's obedient servant,
Alexander George Richey.

The Right Rev.
The Lord Bishop of Limerick,
Secretary to the Commission for Publishing the
Ancient Laws and Institutions of Ireland.

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INTRODUCTION.

I.

THE Brehon Law Tracts contained in this volume have been selected by the Editors as specially illustrating the land-laws of the early Irish, and the constitution of the Celtic family and tribe.

Upon the former of these subjects it is not to be anticipated that we should find in any work, composed by a lawyer of the Brehon school, a series of definite rules systematically arranged; or even an attempt to lay down the general principles upon which, in any class of cases, the judge or arbitrator proceeded. The idea of law in its technical sense was wholly foreign to the ancient lawyers. They dealt not with laws, but customs; which, of unknown origin, handed down from remote antiquity, often obscure, and frequently misconceived, influenced the public opinion of each tribal community as to what it was right should be done in each particular case. The Brehons were gradually approaching the idea of general legal propositions by an induction from numerous and distinct cases which had been decided in accordance with pre-existing customs.

This mode of dealing with legal questions has been largely illustrated in the preceding volumes; assuming an individual case to have resulted in a concrete decision, they vary to a certain extent the constituent facts of the case by adding some, or striking out others, and speculate as to the variation in the decision which should have followed such an alteration in the facts. This mode of dealing with legal questions naturally fell in with the idea that all legal rights should be treated from a negative point of view, that is, considered not with the object of being enforced, but rather of being compensated for when infringed, the amount of such com-

pensation being assessed in fixed ratios with reference to the varying circumstances of each case.

To record the existing customs of their tribe was not an easy task for the ancient lawyers, for it involved the necessity of reducing the indefinite general opinion of the tribe into a series of abstract propositions by a wide induction from particular cases. The most indefinite custom cannot exist, or be transmitted, without being reduced to some form which is capable of oral transmission, and in every uncivilized community certain ancient rules, dealing indifferently with moral and legal matters, are handed down from father to son, and remain the exclusive possession of the elders of the tribe and the sages of the law. Such ancient rules, when preserved, rarely afford any distinct or reliable information; they are intended to serve as catch-words or suggestions to assist the memory to recall what had been previously orally communicated; generally in a rythmical form, always in language condensed and antiquated, they assume the character of abrupt and sententious proverbs, the drift of which cannot be more than vaguely guessed at. Collections of such sayings are to be found scattered throughout the Brehon Law Tracts, and in them, if anywhere, are to be found whatever abstract legal propositions the Brehons possessed; it is to be regretted, although it may be naturally anticipated, that but little clear and definite information can be extracted from these passages. If we were certain that they were preserved in their original form, and had no doubt of the accuracy of the translation, yet the actual meaning and practical application of these brief and oracular utterances would be to a great extent a matter of mere speculation; such, however, is far from being the case, and the modern critic approaches the consideration of them under great, if not almost insuperable, difficulties. The first inquiry naturally is, whether we possess an authentic Archaic text; upon this preliminary and cardinal question it is impossible not to feel most serious misgivings; however ancient any particular rule, or rather apophthegm, may be, the grammatical form of the language in which it is

expressed cannot claim very high antiquity; it is manifestly much later than the Irish of the glosses; the words have lost their inflexions, but the sentences have not assumed a logical construction, and their present form very much resembles a Latin inscription in which the inflexional terminations of the nouns and verbs have been erased. Both the text and matter of popular literature orally transmitted undergo a constant assimilation to the language and ideas of the day; but many examples prove that ancient formulæ handed down as the exclusive possession of a comparatively small number may at length become unintelligible even to their exclusive custodians; the Salian hymn of Numa and the litanies of the Arval brothers were repeated long after their direct meaning was lost. Although it cannot be contended that the text of the Brehon law had become as absolutely antiquated as the formulæ last alluded to, it is evident that the commentators felt that they were dealing with an uncertain and difficult text; the numerous and often conflicting glosses, and the commentary, sufficiently prove this. The original text may perhaps have been as much, and as little, understood by the Brehon of the 16th century as the original text of the laws of the Decemviri by the Roman of the 1st century.

An ancient legal text is further very much embarrassed by the necessary use of purely technical terms, which can have no life or meaning apart from the society in which they originated, and which when once lost can never be recovered. The extensive reforms effected during the present century in the English Real Property Law have already rendered obsolete a large proportion of the terms of legal art which were familiar to the cotemporaries of Lord Kenyon. In the case of an hereditary profession, as was that of the Brehon judge, the use of technical terms throws about the simplest operation the air of mystery, in which the exclusive possessors of any speciality desire to hide their calculations; and thus by every profession whose members assume an abstruse character, heralds, lawyers, theologians, &c., there are used vastly more technical words than are necessary, the object of which

is rather to cloak trivial, than to express complex, ideas. Difficulties arising from this cause occur plentifully in every Brehon law tract.

The task of translating the original text is further embarrassed by the ordinary absence of punctuation in the manuscripts. When the sentences in a paragraph are intended to be fully developed, an intelligent reader supplies for himself the want of punctuation (which is a very modern invention), and successfully follows the sense of the authors as it is gradually developed. The original Brehon text consists altogether of curt and proverbial expressions, which rarely attempt the completeness of a sentence, and are strung together without an attempt at logical or grammatical connexion; indeed it may be fairly supposed that if one of these paragraphs had been read through to a Brehon judge for the first time, evenly and without strong accentuation, he would have found himself much perplexed if required to explain the meaning. It is apparent that the most ancient passages possessed a rythmical structure, and that the movement of the verse, and the pauses in the lines, threw out separately and emphased the curt and unorganized apophthegms. Passages of this character, when all the words are reduced to the one dead level by being successively written out without stop or accent, are absolutely deprived of all the aids to their comprehension, which their author assumed would be lent to them by the voice of the oral teacher.

Editors of such a text must exercise the utmost caution, and are exposed to constant temptations. The first necessary step which should precede translation is to break up the text into the proper paragraphs and sentences. The form of the text gives no indications how this should be done, and hence in the present case the logical process has been often inverted, the punctuation being fixed with reference to an *a priori* conjecture of the general drift of the passage. Such speculations, however ingenious, are always practically of little value, when a large proportion of the words are technical terms, the precise meaning of which is unknown

to the author. The editors of this volume, which contains many passages of peculiar difficulty, have felt themselves forced to reconsider the principles upon which the more ancient text should be translated, and to lay down some rules for their own guidance in the matter. They have come to the opinion that the only consistant principle upon which a translation of the archaic passages can be based is to adopt the explanations of words contained in the glosses, and to assume the correctness of the views as to the general meaning of the text expressed in the commentary. It may be easily conceded that the authors of both the glosses and commentary were themselves unable to translate the text with accuracy, or with certainty to divine its meaning; but their condition in respect to the modern editor is as twilight to absolute darkness. At what date the original family and tribe-system was broken up in Ireland; whether it had not been superseded by another organisation even before the date of some of the commentators of the Brehon law tracts, is a question which cannot be answered without much consideration and further examination of both the Brehon law and the existing materials of Irish history; but whether the original Celtic family and tribe-system did or did not exist in its completeness at the time of commentators, they lived under the influence of the ancient traditional law, and must, as an hereditary caste, have cherished the recollections and spirit of the old customs, the exact knowledge of which may even have ceased to be of practical importance. As a means of understanding the present, as even a fragmentary survival of what was once useful knowledge, every lawyer learns as a matter of course much which is really obsolete and unpractical. The English law student is instructed in much of the law which has been long since advantageously abolished. The theory of the feudal system, the origin of the manor, the feigned proceedings by fine and recovery, are taught to modern students, who may never have any need practically to apply them; but by this process the tradition of the old real property law of England is handed on; and a second rate practitioner of our day could

to some extent explain a case in the year books which would be absolutely impenetrable to the trained mind of an accomplished civilian. Before attempting to fix the meaning of any passage in the original text, the editors have consulted the glosses and commentary with the view of ascertaining what the original commentators understood the general drift and meaning of the text to be, and the punctuation and translation has, as far as possible, been based upon the assumption of the correctness of the views of these early critics. The more any student becomes conversant with the ancient texts, the more he must be impressed with the fact that any other mode of dealing with them is wholly conjectural. It is possible for an ingenious editor, by a due application of stops, and the interpolation of words, supposed to be understood, in italics, to produce any results he may desire, and by such a process a very plausible and consistent appearance may be given to a translation which bears a very feeble (if any) resemblance to the original. It is the simple duty of the editors of the present volume to give the public a translation as correct as possible of the Irish text, and they have anxiously abstained from the constant temptation to translate this text in accordance with their preconceived views of what it ought in any given case to mean; they at the same time desire to warn students of the subject that in their opinion the present translation of the original text can not be received as final or satisfactory: it is essentially tentative: that other students will differ from it in many particulars is certain; that some may successfully revise and correct it is most probable; neither the late distinguished scholars, who originally translated the MSS., nor the present editors, nor any future critic are certain to be always successful in dealing with such a subject matter. The reader cannot be too clearly reminded that the translation of the original texts has been conducted upon the principles before stated; that conjectures founded upon the supposed meaning of detached passages of text, and unsupported by the commentary are uncertain; and that the commentary, not the text, is, in the opinion of the editors,

the reliable basis for any conclusions or further speculations. These observations are the result of a prolonged experience in dealing with these Brehon texts; the most difficult of the passages in question have been translated and re-translated; frequently the translations were apparently most consistent and probable, but again and again they have been found to be inconsistent with what the glossists and commentators manifestly understood them to be, and in many such instances the editors had finally to admit that their own views as to the meaning of the text were, although perhaps ingenious, altogether mistaken. As to the technical legal terms occurring in the text, the editors have desired to translate them as far as possible; it must be observed that such words cannot find an exact equivalent in any modern language; the complex ideas represented by these words were, as is the case of all legal terms of art, formed under peculiar and transitory conditions of society, and their real and living use and meaning perished with the system out of which they sprang. Their meaning can be only approximated by a diligent comparison of the divers passages in which they occur.

II.

The Tract entitled "On Taking Lawful Possession."

The first tract contained in the present Volume is entitled "On Taking Lawful Possession," and the importance and peculiar meaning of this title will be obvious from the subsequent observations.

The first portion of the original text down to page 33 is obviously composed as a consecutive treatise dealing with the symbolic ceremonial by which an action for the recovery of the possession of land was instituted; the latter portion consists of a selection of isolated rules, some dealing with hereditary succession to land, others having no more than an incidental connexion with those which precede them.

This tract, in itself of obvious utility to the practising Brehon, is the subject of lengthened and clear explanations, and it would appear that the commentary annexed to the text is formed by combining several antecedent commentaries from different manuscripts, inasmuch as very similar notes upon the same passage succeed each other in the text.

The great importance of this tract arises from its exhibiting in the clearest manner the mode in which the judicial authority of the Brehon arose, and the series of legal fictions by which a defendant was constrained to come into court, and to submit his case to the jurisdiction of the customary Judge. It is most interesting to observe that the authority of the Brehon among the Celtic Irish arose in precisely the same manner as that of the Judges, by whatever title they may be called, among the other Aryan tribes; that the peculiarity of the Brehon system does not prove any abnormal organization of the Celtic tribe, but was in truth but an instance of archaic survival; and that a Roman might have recognised in the proceedings before the Brehon the ancient and technical formulæ, from which with difficulty and after long delay the Civil Law succeeded in freeing itself.

The evolution of the idea of law and judicial authority is inseparable from and follows that of government and social organization; the judicial system of the Celtic Irish was permanently fixed by the arrested development of their social organization, from many causes, which it is not intended here to discuss, but most of which were originally physical. The Celtic Irish never formed town communities, or were subject to any vigorous central authority; it was utterly impossible, therefore, that they could attain to ideas of law, which are evolved by the needs of a more complex civilization; the peculiarity of the Brehon is that professional lawyers of great acuteness and considerable technical education developed in numerous written works the logical results of a purely archaic customary law.

In the introduction to the last volume we drew special attention to the fact that all judicial authority, at least

among the Aryan or Indo-European tribe communities, is originally derived from a system of voluntary submission to arbitration, and we treated the Brehon process by distress as a legal fiction illustrative of this principle; the formulæ necessary for the institution of actions to recover the possession of land, and which are dealt with very fully in the present tract, in a remarkable manner illustrate this rule, and present extraordinary analogies to the ancient processes of the Roman law. We desire very briefly, and with special reference to the forms of actions—the subject of this tract—to re-consider the origin and theory of judicial authority in primitive communities. Every archaic society is governed absolutely and exclusively by "Custom," which may be defined as the acquired habits of any human community. Whence any such habits were originally acquired, or when any society began to acquire and transmit any fixed modes of acting, are questions wholly foreign to this introduction; we must accept as a fact that every human community appears to have acquired certain habits of acting, and that the surrounding physical conditions have been most influential in either originating or modifying them; abstract ideas of right or wrong are very obscure in the members of a primitive community; even in the ordinary affairs of daily life they consult their own comfort and advantage much less than do the members of a civilized society, and do and endure many things because their ancestors did or endured the same, for the local opinion of the tribe believes that their ancestors were wiser than themselves, and what has been shall continue to be done. In such a state of society the ordinary incidents of life, such as the birth or death of any member of the community, &c., are followed by fixed and well-known results, and the status, property, and position of each individual depend upon, or are affected by, the occurrence of a well-understood fact, or group of facts. The progress of any such society arises from the efforts of individual members to get rid of the custom which restrains their personal freedom, to act otherwise than the unwritten law of public opinion decrees

that they must act, from the struggle of the free will against the local custom. In such communities the individual dares not attempt to attain his object by open contradiction, or repudiation of the venerated local usage, and strives, therefore, to effect his purpose through fictions by means of which the custom is violated in fact, though observed in appearance. If a man, who desires to do something which he is forbidden to do directly, observes that in the event of certain facts occurring the custom will allow him to do what he desires, he may artificially produce the requisite state of facts, and then, in apparent conformity with the custom, circuitously effect what he could not have directly accomplished; in such a case a series of acts are consciously done solely for the object that a certain effect may follow; the object desired is the consequence of the act done, and arises from the actual pre-existence of the necessary antecedent fact; gradually as it is understood that the custom can be thus evaded, the necessary antecedent acts became less and less real, and finally assume the form of a symbolical, or pantomimic performance, which, with the object of individual convenience, is gradually more curtailed, until at last it is simply alleged or verbally asserted to have been performed, and matters are allowed to proceed upon such assumption. Up to this point it is manifest that the necessary antecedent facts must be fully and correctly performed, simulated, or alleged, and that any failure so to do, or incorrectness in so doing, must result in the failure of the whole operation. Finally, the exception having become more familiar than the rule, the society begins to believe that the individual has a right to do directly what he has hitherto affected indirectly, and the formula, which originally was the foundation of the matter, is discovered to be an unmeaning technicality and rejected altogether. The ceremony of marriage among half civilised nations is the most obvious instance of this fact, and the form of marriage by wife-capture existed in Rome, as in many other communities, for centuries after the date at which its meaning was so utterly forgotten that historical romances were invented to account for its origin. As to

transactions of this kind during the intermediate period, when the necessary antecedent facts were merely simulated or alleged, two points must be observed; first, that unless the simulation was correctly performed, or the allegation full and complete, no results at all followed, and secondly, that if the ceremony was correctly gone through, precisely the same results followed as would have resulted from the real occurence of the facts simulated to have occurred.*

The jurisdiction of Judges was gradually established by a series of fictions. In the original tribe each "paterfamilias" ruled as of right those under his absolute jurisdiction; but, if differences arose between members of two distinct families, there was no original authority to which either could appeal; such disputes could be decided only by a recourse to force and arms; the manifest inconveniences of such a system called for some remedy, as the society progressed towards order and civilisation. At some period there arose a custom, or general public opinion, that under certain definite circumstances the hostile litigants should submit their quarrel to the arbitration of the tribe, and that the question in dispute should be decided by reference to the assumed pre-existing custom.

The rule that in such cases recourse should be had to arbitration was in its inception one of imperfect obligation, and the contending parties might still insist upon the natural right to assert their claims sword in hand; the regulations as to judicial process among the early

* The common recovery in the English law was one of the most elaborate and successful of legal fictions; by this process the owners of estates tail succeeded in practically repealing the Statute "De donis." The original form of procedure in actions of ejectment is often described as another instance of legal fictions; but it does not fall within Sir H. S. Maine's definition of the term; it was not introduced to create or attract jurisdiction, for the Court of Common Bench had original jurisdiction to decide the question really in issue; and it produced no change in the rules of the Common Law relative to titles to land. In its inception it was nothing more than a fraudulent abuse of the procedure of the Court arising from the alteration in the form of judgment entered up in actions commenced by the writ "*de ejectione fermae*;" and the alterations in the procedure, which established it as the ordinary action for the recovery of land, were introduced by the Court itself.

Norse settlers in Iceland illustrate this most clearly;* but gradually the increasing pressure of public opinion caused the reference to arbitation to become the accepted and normal mode of deciding differences between the members of the tribe. It is to be observed that the public opinion, or custom, did not require the intervention of the arbitrator until the dispute had reached a certain point, viz., until the public peace of the tribe was broken by the occurrence of actual hostilites between its members. An individual could not institute a suit to determine a right as against his neighbour; but if he assailed his neighbour, spear in hand, the community required both to submit their rights to arbitration. The plaintiff, therefore, who desired a judicial decision upon his claim, proceeded openly to assert his right in an hostile manner, confident that upon the inception of the combat the other members of the community would intervene and enforce the custom of arbitration against both parties; the neighbours would not, however, step in between the parties until matters had gone on to the point at which the custom required a submission to arbitration, nor could the defendant be required to admit that the custom applied to his case, unless all the preliminary requisite circumstances had actually occurred. The pantomime of actual conflict had to be correctly acted up to the critical point, otherwise there would be no basis for the jurisdiction of the arbitration, and it should not be pushed beyond a definite point, otherwise actual conflict would have occurred, the very thing which the plaintiff desired to avoid. Hence the extreme technicality of all the early procedure, which proceeded upon this theory, and the fact that ancient lawyers devoted their attention to the formulæ requisite to bring a defendant into court, and disregarded the principles upon which the case should be decided when brought before the arbitrator; for the decision of the case it was assumed that the existing custom

* "Then Flosi spurned the money, and said he would not touch a penny of it, and then he said he would have only one of two things; either that Hanskuld should fall unatoned, or they would have vengeance for him." (The story of Burnt Njal, vol. 2, p. 155.) This was after the judgment, and the tender of the compensation.

was sufficient, and the "sensus communis" of the members of the community evolved the presupposed usage which ruled the case.* Ignorance of the prescribed formula deprived a

* The proceedings at the trial at the Hill of Law in the second volume of the Burnt Njal illustrate this fact, and prove that the technical terms relative to various classes of wounds, &c., and the mysterious and obscure proceedings incident to an action, were not peculiar to the Brehon Law. The course of the proceedings in this case may be briefly stated as follows:—Mord, the nominal plaintiff, gives technical notice of the institution of suit (p. 235); Flosi, the defendant, in the night secretly resigns his priesthood and joins the Thing of Askel to escape the jurisdiction of the Court (p. 239); the next morning Mord opens his case with the following notice—"I take witness to this, that I except all mistakes in words in my pleading, whether they be too many, or wrongly spoken, and I claim the right to amend all my words, until I have put them into proper shape. I take witness to myself in this" (p. 242); the first objection taken is in the nature of a challenge of the array, viz., that two of the neighbours on the inquest were relatives to Mord, one his godfather, the other his second cousin (p. 248); Thorhall, the adviser of the plaintiff, demurs to the challenge on the ground "that he challenged them not for their kinship to the true plaintiffs, the next of kin, but for their kinship to him who pleaded the suit" (p. 250). The demurrer is allowed. The defendant again challenges the array on the ground that two men on the inquest were lodgers only, not householders (p. 250). Thorhall replies that the men qualified as owners of cattle of a value equal to that of the requisite qualification in land (p. 252). This was a novel point. Flosi said to Eyjolf—"Can this be law?" Eyjolf said he had not wisdom enough to know that for a surety, and then they sent a man to Skapti, the speaker of the law, to ask him whether it were good law, and he sent them back word, "*that it was surely good law, though few knew it*" (p. 252). Then followed a challenge to four of the inquest; "for those sit now at home who were nearer neighbours to the spot" (p. 253). To this challenge Thorhall demurs on the ground that a majority of the inquest was rightly summoned, and that therefore the case should proceed, whereupon a further application is made to Skapti, who replies, "More men are good lawyers now than I thought. I must tell you then that this is such good law in all points, that there is not a word to be said against it; *but still I thought that I alone would know this, now that Njal is dead, for he was the only man I ever knew who knew it.*" The inquest are then called on to give the verdict, which they do without further evidence, for they themselves were the witnesses (p. 256). The plaintiff goes then before the Court, and proves the finding of the inquest as to the fact, and the defendant, Flosi, is called to defend the case, or rather to show cause against the finding. Eyjolf, on behalf of the defendant, pleads to the jurisdiction of the court, which was the Eastfritherssthing, whereas Flosi, being now a Thingman of Askel, was within the jurisdiction of the Northlandersthing. This objection was fatal; but a second suit is immediately instituted against Flosi for contempt for court for employing a lawyer in the court to whose jurisdiction he was not subject, "for having brought money into the fifth court" (p. 261). This step was taken to compel Flosi to withdraw the plea to the jurisdiction. Other technicalities follow, but the litigation finally resolves itself into the "Battle at the Althing."

man of, not of the right, but of the possibility of bringing his antagonist before a Judge; and the possessors of the requisite mysterious forms, whether patricians, pentiffs, or Brehons, thus acquired the advantage of being the sole possessors of these secret and essential forms. Thus, in the Roman law, the term "*actio*" became the generic designation, which signifies a particular form of procedure taken as a whole including the ceremonies, acts, and words, which constituted it; all of which had to be correctly gone through before the Judge had any jurisdiction in the matter. The case of the Romans proves that it is quite possible that an actual written law should co-exist with such a purely archaic conception of the position and jurisdiction of the Judge.

This period in the development of Roman law is clearly illustrated in the following passages:—

"The Quirites (men of the lance) had, in their judicial customs, even to the promulgation of the twelve tables, forms of procedure, assimilated to acts of violence, and to the combat, in which we at once see their predominant characteristic, the military life, and the important part played amongst them by their favourite instrument, the lance; as also the predominance of the sacerdotal and patrician elements, which had regulated the forms, and which had preserved the pantomimic action of former days."*

"The *actiones leges* were completed *in jure* before the magistrate, and this was the case even when it was necessary for him to appoint a Judge. This was the form, the preliminary step;"† (that is, the intervention of the state did not proceed beyond compelling the parties to submit the quarrel to an arbitrator; the state did not pretend itself to enforce the law in the first instance);

"But notwithstanding the fact that the *sacramentum*, and the *judicii postulatio* were generally forms for the enforcement of all substitution of rights, and that they had in all cases a certain uniform characteristic, however much the details and necessary formulæ, adapted to each individual

* Ortolan, History of Roman Law, sec. 140. † Id., sec. 142.

case, might vary in each instance, according to the nature of the law, or according to the provisions of the law upon which the right was based, it was necessary that the parties should be familiar with the acts and ceremonies suited to their particular case."*

"Such was the early system of procedure amongst the Romans. Its characteristic was symbol; it is here that we find the lance, the tuft of grass, the tile, and the material representation of ideas, or of objects. It is here that we find the gesture, the legal pantomime, the simulated act of violence, the fictitious combat (*manuum consertio*), for the most part symbolising the transactions and processes of an earlier and barbarous period; here we find the utterance of sacred terms, and he who should be so unfortunate as to say "vine" (*vites*) in an action concerning vines, instead of using the word "*arbores*," which was the religious term peculiar to the law of the case, would lose his action; here we find the impress of the sacerdotal finger; we see it in the *sacramentum*, the preliminary deposit of money in the hands of the pentiff for the benefit of public religious service; we see it in the *pignoris captio*, accorded subsequently on occasions in which religious sacrifices were concerned; and it is here we find the weight of patrician influence. The magistrate was a patrician; the Judge could only be selected from the order of patricians; in one word, *jus* and the *judicium* were in their hands."†

The explanation of the latter statement plainly is that it was the original tribe, not the mere sojourners or strangers on the spot, who had the right to intervene to preserve the peace, and that none but a member of the original tribe could be assumed to know the local custom.

The Roman ceremonial to which we desire to draw particular attention, as presenting peculiar analogies to the Brehon procedure detailed in the present tract, is the *manuum consertio*, which formed portion of the symbolic action which took place in the process known as the "*sacramentum.*" This

* Id., sec. 143. † Id., sec. 144.

proceeding appears to be nothing else than a personal conflict between the litigants, fought out over the subject matter in dispute; if the subject of dispute was such as could not conveniently be carried or led before the prætor, a portion was brought into court, and the formalities were enacted over it as if it were the whole (*deinde in eam partem quasi in totam rem præsentem fiebat vindicatio*). If it was a flock of sheep or herd of goats, a single sheep or goat, or single tuft of hair was brought; if it was land, a clod; if it was a house, a tile, (Gaius IV § 17 Poste's translation). The essence of the action was an actual combat over the subject of dispute; a mere personal conflict apart from the subject matter in dispute was not sufficient to compel a submission to arbitration as to title; the actual "*res*" or its symbol must have been fought across by the contending parties. It is remarkable how far even at the date of Gaius, the original form in actions as to the possession of land had been symbolised for the convenience of the parties. Originally, when land was the subject of controversy, the prætor repaired with the litigants to the spot, and they there performed in his presence (*in jure*) the ceremony of the *manuum consertio*. At this stage of the procedure, the breach of the peace was designedly produced in a symbolic form, but every thing else was real. When, however, the Roman territory became too extensive for the prætor to attend every such fictitious combat, the ceremony was adapted to the change in circumstances, the presence of the prætor was dispensed with; the parties, accompanied by their respective witnesses, performed the *manuum consertio* upon the ground in dispute, and carried a clod as portion thereof to the prætor, and then matters proceeded as if the prætor had been present upon the *locus in quo* during the performance of the ceremony. Subsequently the necessity for the litigants to resort to the lands in dispute was dispensed with; they left court and again returned, it being assumed that they had in the meanwhile repaired to the lands in question; that is that the statement that there had been a *manuum consertio* became an untraversable

allegation in the pleading, and of course was soon absolutely dropped out and disregarded.*

The Brehon procedure for the recovery of land is identical with the Roman form up to the point at which the contest for possession was reduced to a mere symbolic formula; probably from the small extent of the tribe lands in which such disputes arose, the further step of substituting an untraversable allegation that a conflict had arisen for an actual or simulated conflict did not occur to the Celtic lawyers; but the procedure, although crystalised in this archaic form, was modified to suit the circumstances of different cases, and was adapted to admit what in our

* Mr. Poste in his edition of Gaius (p. 499, 2nd ed.) asks the question, "What was the exact nature of the 'manuum consertio?'" Upon the analogy of the oath taken by the parties in the wager of battle in the old English law he conjectures that the term was equivalent to δεξίωμα, an oath or pledge that the party believed in the justice of his case; in the first edition of his work he adds, "It must be confessed, however, that none of our authorities allude to the oath (jusjurandum) having formed a part of the procedure by sacramentum, and possibly the manuum consertio was merely a symbolic battle." In his later edition he adds "Is it possible when we consider the common Aryan descent of the Romans and our Teutonic ancestors to suppose any connexion between the forms of Roman and Teutonic litigation? Or, was manuum consertio merely a symbolic battle, an idle reminiscence of a process belonging to a period anterior to the existence of public tribunals, the period of self-help, when the remedy of the litigant was to redress his wrongs by the prowess of his own right hand? Or was manuum consertio, like Diductio and Vis ex conventu, a fictitious trespass necessary for the basis of the penal (?) proceedings by sacramentum? Or was it merely the means of identifying the subject of litigation?" (p. 500). The supposed analogy between the Roman action and the Wager of Battle is very doubtful. The English proceeding was one of the modes of arriving at a finding upon the issue of fact arising upon the pleadings, by an appeal to the Divine power to testify as to this fact by giving the victory to the party in the right. The assertion of right was an appeal to the Divinity by both of the combatants, who might be hired champions, but ought to be persuaded of the truth of their cause. Upon the result of the combat depended the finding, as to the question of fact, upon which judgment was entered. What resemblance there is between these cases it is difficult to see. There can be little doubt that manuum consertio is to be translated in its ordinary meaning as a combat, not a "symbolic battle, an idle reminiscence of a process belonging to an anterior period," but, *for the purposes of the suit*, an actual combat, as for the purpose of barring an estate tail, the recovery was an actual action, pleaded to and defended by the tenant in tail; and the judgment over in warrentee against the vouchee was full compensation to subsequent tenant in tail and the remainder men.

present system of English pleadings would be described as a counter-claim.

It is to be first observed that the introduction of the community for the purpose of compelling the parties to submit to arbitration, was quite independent of any intention or desire of the parties that there should be an adjudication as to their several rights to the land in question; it arose from the existence of the fact that two claimants were at one and the same time in possession adversely to each other of a certain piece of land. This is very clearly shown by a case cited in the commentary.* Ninne, the son of Matech, with three horsemen was on his way to Ulster; they unharnessed their horses upon certain lands, which had previously belonged to their tribe; this fact was unknown to them, they had no intention of making any claim to the lands in question, and their halt there was merely accidental. The occupier of the land required them to depart; "Then the two, who were with Ninne replied; 'It does not make our claim greater that we have unharnessed our horses here; it is not to claim our share therein.' (The occupier replies) 'This is not easy, for it was your own before; they shall not be left there for that reason.' *They did not know until then that it had been theirs before.* The person whose land it was drove their horses from it by force. They afterwards complained to Conchobar Mac Nessa concerning it, and he awarded a fine for unlawful expulsion upon the person who drove the horses out of the land, and an equivalent for what was driven off it, and he gave them lands in proportion to their family."

This story recognises the right of Matech to require an adjudication as to his rights in respect of the lands, although the King compounded this claim by an equivalent given out of his own lands. This bare fact of a contest for possession was gradually modified into a fixed procedure by which notice of the intended entry was served upon the occupier, and the transaction was witnessed and probably regulated to members of the tribe, the occupier given

* Page 5.

ample time to consider whether he would abandon the lands to the claimant, or submit the case to arbitration, and, finally, damages payable to the occupier for an illegal entry secured in the event of the claim proving unfounded. The entire process in its fully elaborated state was tedious, requiring, if the occupier simply remained quiescent, a period of not less than thirty days. For ten successive days (or at least on the first and tenth day) the claimant gave notice of his demand, and of his intention to enter if no answer were returned; on the tenth day, accompanied by his witness, and leading two horses by their bridles, he crossed the boundary, and remained upon the contested premises, but just within the march, for a day and a night; he then retired, and during the subsequent period of ten days (or at least on the middle and last day) repeated the notices previously given; upon the twentieth day he again crossed the march, with four horses and two witnesses, and advanced one third way towards the centre of the lands. If again he received no answer from the occupier, he withdrew, and for two days more gave notice outside of his intention to make his final and decisive entry; on the thirtieth day he again entered the lands with eight horses, and with witnesses of whom a certain proportion were of the chieftain rank (*flaiths*), and the others freemen (*feini*); upon this last occasion he advanced to the centre of the land, and took possession, unless the occupier submitted to arbitration. The prolonged period requisite for the notices and several entries, was intended to allow the occupier time to consider whether he would consent to arbitration; and the final entry was in such a form as to compel the occupier either to abandon possession, or actually to resist, for it is stated that, "unless law be offered to him before going over" (which must mean the crossing of the boundary on the thirtieth day), "it is not unlawful for him not to come out, until it is ascertained whether the land is his or not." If, however, the occupier distinctly refused arbitration, and contested the rights of the claimant, the lengthened procedure was unnecessary, and the matter was brought to an issue by an actual forcible entry and occupation of the lands in question; "if it be certain to him (*the claimant*) that law

will not be given to him before going over" (*i.e.*, before he has crossed the boundary upon the thirtieth day), "it is not unlawful for him that he has not given notice, provided that he has brought the means of taking possession"; and again; "if it be certain to him that law will not be ceded to him, it is guiltless for him to go over with all his cattle."

The symbolism of the procedure is evident; the claimant is to enter upon the lands in such a fashion as to show that he is not seeking as a traveller to cross the piece of ground in question; he does not drive his chariot into or upon the lands, for in such case his intention might be ambiguous; his horses must be loosed from the chariot, and led by the bridle as if to graze; the duration of the first entry is intended to prove by a lengthened sojourn within the fence that his claim was not to traverse but to occupy; on the first two occasions upon which an actual conflict is not anticipated, he is attended by a witness or witnesses to testify to the performance of the essential act; upon the third occasion he is accompanied by witnesses, who must consist of members of the noble and of the free class of the tribesmen. The necessary presence of the former is remarkable; it is very probable that they are representatives of the community, whose office would be two-fold; either to intervene as the Roman prætor in the *actio sacramenti*, if an actual conflict occurred, or if the occupier abandoned the possession to recognise the claimant as the legal occupier of the land. That the arbitration must have rested upon either voluntary submission or actual conflict, is manifest from the statement that the result of an unresisted entry on the thirtieth day by the claimant, not followed by a submission to arbitration by the occupier, was not in the nature of a judgment *in rem*, but merely legalised the plaintiff's occupation until the question of right was decided; and this continued legal occupation had no other result than to inconvenience the occupier to such an extent as to compel him to discuss before the professional arbitrator the question of right.*

* The Welsh process for the recovery of land is analogous to the Irish. "There are three kinds of dadenhudds of land; and these dadenhudds are, a dadenhudd by tilth and ploughings, a dadenhudd by car, and a dadenhudd by bundle and burden."

The symbolical acts by which a man expressed his intention of subsequently taking possession, and which upon the last entry amounted to constructive possession, were manifestly unsuited to the case of a woman; it was necessary for her to represent in pantomime the incidents of *her* ownership, and if she failed in the appropriate details, the ceremony was wholly useless for the purpose of putting the occupier in such a position that public opinion would require his submission to arbitration; thus when the Brehon Sencha, with the design of causing the process to fail, declared that the formulæ in the two cases were the same, blotches arose on his cheek as a punishment for his unjust advice; nor was he cured until his daughter Brigh communicated to the female claimant the requisite symbolic acts for the purpose of establishing her right to force the occupier to an arbitration.

The exclusive possession of the knowledge of such ancient forms was in all early societies the basis upon which rested the

"And these dadenhudds are not to be prosecuted except by the son, in the place where his father was theretofore, or in the place where his parents were formerly; for a dadenhudd is not to be sued by kin and descent."

"Whoever is to prosecute dadenhudd by tilth and ploughing, is to remain upon the land, without answering, until he may turn his back on the stack of the forthcoming harvest, and that without answering to anyone, and the answer; and the ninth day from the following calends of winter, law."

"Whoever is to prosecute dadenhudd by car, by having been with his car and his household and his hearth, belonging to himself, or to his father before him, upon that land, is to be there, without answering, until the ninth day, and then give an answer; and at the end of the second ninth day proceed to law."

"Whoever is to prosecute dadendudd by bundle and burden, by having been with his bundle and his burden, his fire, himself and his father before him using a hearth, upon the land, is to be there, without answering, three nights and three days, and give an answer; and at the end of the ninth day, law."

"And the dadendudds are not to be adjudged to anyone, unless there shall have been a grant and delivery of the land to him previously by the lord." (Ancient Laws and Institutes of Wales, vol. i., p. 171.)

It is to be observed that these forms of action are confined to claims founded upon actual ouster, or by lineal descent to lands granted to individuals in several property. The narrow limits within which a claim by hereditary descent were restricted by the Welsh law are subsequently explained in the section of the Introduction dealing with the *fine* and the *gailfine* organization. The full details of the procedure in such cases are in the same work, vol. ii., p. 277.

power of the sacerdotal or patrician classes. If the correct fulfilment of ancient traditional litanies, or the dramatic performance of a complicated pantomime, was necessary for every tribe man who desired to accomplish his devotions or to assert his right, the class, which possessed the traditional and requisite formulæ, exercised an undefined but unlimited influence over the uninitiated lower order. The first step towards the establishment of original judicial power, was the publication, or perhaps the vulgarisation, of the antique formulæ. A knowledge of the custom was practically useless unless accompanied with the further knowledge of the appropriate form of action; hence immediately after the passing of the Twelve Tables a further effort was made to prescribe regulations for the forms of procedure, or the actions of the law (*leges actiones*); and hence the severity of the blow inflicted upon the Patriciate by the devulgation of the formulæ by Flavius Fimbria. There is some inconsistency between the text and commentary as to the form pursued by a female claimant, but upon the whole the principle of the variance between the two ceremonies is obvious; the symbolical acts to be performed by a woman represented the ordinary incidents of her occupation of the land; for the horses led by the man, in her case were substituted the same number of sheep; the period of thrice ten days was in her case reduced to thrice four days; she made three successive entries, first, with two sheep and one female witness; secondly, with four sheep and two female witnesses; and lastly, with eight sheep and three female witnesses; the text cites what must have been considered the leading case of the woman Ciannacht, which contains further particulars of the procedure which had apparently fallen into disuse before the date of the commentary. It was necessary for the claimants of either sex upon the first entry to remain a full day and night within the fence, and by the commentary it appears that upon the second entry also it was necessary for the woman to remain for this period upon the lands; the witnesses therefore who accompanied her upon these occasions were women, not men; but upon the occasion of the

third and final entry she "claimed her right with a male witness." Whatever be the reason that upon the two first entries the witnesses were female (as to which the gloss gives a curious explanation), it is evident that the witness upon the occasion of the third entry was required to be a male, and we may infer that this arose from his fulfilling not merely the duty of witnessing the transaction, but of intervening, in the name of the community, in the manner above suggested. The original also represents Ciannacht not only to have driven the appropriate number of sheep into the land, but also to have carried with her a sieve, a kneading trough, and a baking instrument (probably a griddle); these articles clearly indicated her intention not merely to enter, but also to remain upon the lands, and to perform the duties of her position as housewife.

This ceremonial, necessary as a general rule for the assertion of a claim to the possession of lands, was, from its nature, in some instances impossible, and in many inconvenient; and the form was therefore varied to suit the peculiar nature of the case, hence the passage in the text:—"There are seven lands with the Feini—into which cattle are not brought for entry; it is men that are required" (p. 7); and that in the commentary:—"the same number of cattle which is brought to take possession of the other lands is the number of men that shall be brought to take possession of these lands" (p. 9). The two first cases excepted are those in which the entry with horses was absolutely impossible, viz., (1) a dun fort without land, or (2) a church without a green; the four next exceptions are cases in which the horses to be brought upon the land would be exposed to some necessary peril, viz., (3) "a land upon which there are plunderers," which is glossed as meaning a land upon which the cattle have been killed; this is a very ambiguous expression, and may bear two entirely different meanings, according to the reference of the term "plunderers," either the persons in occupation, or to third parties; the general object of the exception is that the claimant should not be obliged to go through the details of the ceremony, if there were reason to anticipate his

horses would be injured or stolen; (4) an island into which it would be impossible, without great inconvenience, to bring the horses; (5) land the cattle upon which were suffering from murrain; (6) land the cattle upon which were upon certain contingencies liable to be seized by some local potentate in exercise of some customary right. Two instances of lands of this description are given; the lands of Tir-Mudhain, the cattle upon which were forfeited to the King of Caisel on the day on which he assumed the sovereignty, because the inhabitants of the lands had killed a former King of Caisel; and the lands of Rod-Adamair, the cattle upon which were similarly forfeited to the Coarb of Lismor the day on which he assumed the Abbacy, a custom explained as the reward granted to Saint Mochuta, the founder of Lismor, for having expelled a serpent out of the lands in question. In both these instances the lands were subjected to some curse or penalty, in expiation of the sins of their former owners, and such exceptional rights should not be confounded with any of the feudal incidents; (7) the last excepted case is that of "land which the chief divides after the death of the tenant (occupier), where a hole is made, where a stone is put." It is evident that this passage was ambiguous to the glossists and commentators; the immediate gloss upon the text is perplexed and contradictory; it seems to explain the exception as referring to any proceeding on the part of the chief to re-enter upon a portion of the tribe land (dibadh land), after the death of the member of the tribe to whom it had been allotted, for the purpose of re-distributing it. In a later passage of the text, which occurs in page 21, there are two classes of land excepted in the following words, "except *in the case of* the lands of Conn Cetcorach, or *of land* devoted to the support of a mansion which is a Nemeadh-person's," the latter of these exceptions manifestly corresponds with the sixth exception of the passage in the 7th page, and it may be assumed that the former exception, in the latter passage, agrees with seventh exception in the earlier portion of the work; this is rendered certain by the explanation in the gloss that the

phrase "Conn Cetcorach's land" denoted some particular portion of the "dibadh" land; the gloss in page 23 explains the exception as referring to a contest between tribesmen upon a re-distribution of the land by the chief, but adds the very difficult passage, "as to the land which is lent or let for rent, it is into it the requisites for taking possession are brought." That the ancient ceremonial should be exclusively (or at all) applicable to lands let upon rents, is highly improbable, and it is in contradiction to the cases of Ninne son of Matech, and Ciannacht, which were evidently considered as leading authorities. The only explanation of the gloss which can be suggested, is that the glossist intended to distinguish the two classes of lands; those held in common by the members of the tribe, and divided and re-divided among them by the chief, to which the entry with horses was not necessary; and those held by members of the tribe in severalty, to which the ceremony was applicable; but that at the date at which the gloss was written the free members of the tribe had been reduced to the position of paying rent to the chief for the land held in severalty, and that thus the payment of rent had become one of the incidents of several ownership.

The claimant having, however symbolically, asserted his claim to possession of the lands in question by a forcible entry, if he failed to sustain his right, became a trespasser *ab initio*, and was bound to pay damages to the defendant whose occupation he had wrongfully disturbed. Every step in the procedure had to be taken in such a manner that the damages for the entry, if wrongful, were *ipso facto* secured to the defendant. In the case of a male claimant, every witness, whom he brought with him on each occasion, was to be of an honour price equal to the value of the land. The fine for the entry fell upon the claimant and his witnesses, who, most probably, in the subsequent proceedings testified to the validity of the claim, and it would seem that when the claimant, after the third entry, was put into possession of the lands in question, all the stock and other property brought in by him upon the lands, were charged with the damages ultimately to be found

payable to the defendant if the claimant's case failed; and it may be conjectured that in the original form of the action the claimant was bound to put on the land upon the occasion of his third entry stock equivalent to the value of the land; such at least seems to be the passage in the text:—"If there be Fenechus," (submission to arbitration conceded as a customary right), "speedy judgement is passed in his favour. If there be not Fenechus, lawful possession *is given*; its price is to be offered with sheds, cows, food, habitations, attendance of cattle, except in the case of the land of Conn Cetcorach, or the land devoted to the support of a mansion which is a Nemadh-person's" (p. 21).

The exceptions prove the rule that it was necessary in all other cases to bring in the equivalent in property. If this be correct the analogy to the *actio sacramenti* in all its essential points is complete; and the property to be placed upon the land represents the subject matter of the symbolic wager. This system of counterclaim was strictly logical, and founded upon the mode in which such transactions were regarded by a tribe in an early stage of civilization. The symbolic act was regarded as a real and *bonâ fide* transaction, and all the consequences followed from it, which should have followed if the thing dramatically represented had really taken place; the ceremonial was a short-hand mode of writing, but was for all purposes that which it represented. The defendant was forced to arbitration upon the assumption of an actual conflict, arising out an actual adverse entry; the claimant could not deny the reality of the trespass, which was the basis of his claim to obtain a judicial decision of his rights, and was estopped from trasversing this fact when the defendant sought in his turn damages for the wrong symbolically inflicted. Thus, among the Maories, when a man guilty of manslaughter expiated the offence by submitting to the form of being wounded by the avenging kinsman, he was considered as absolutely dead for all purposes; he lost his status as a member of his tribe; his property was divided as if he were actually dead, and he was, as if a stranger, reintroduced into his original tribe by the ceremony of adoption.

The amount of the fine to be paid by the unsuccessful claimant, as may be anticipated, varied, according to the Brehon Law, with reference to the various circumstances of the case. "If the nobles have entered over a full fence, and it is a land which has not a chief and a tribe, it (*the fine*) is a "Cumhal" and forfeiture of stock. If *they have entered* over an half-fence it is three-quarters of a "Cumhal," and three-fourths of the stock. If *they have entered on land* which has not any fence at all, it is half a "Cumhal," half the stock. The stock only is to be divided by the plebeians, and half a "Cumhal" *is the fine if it be* in Cain-Law.* If it be land that has a chief and a tribe, it is forfeiture of the stock with a "Cumhal" *fine, if entrance be made* over a full fence, and one half if there be no fence at all; and this is the same with respect to plebeians and nobles" (p. 25).

The peculiar distinction in this passage between land which has a chief and a tribe, and that which has not a chief and a tribe, is worthy of observation. The original translation has in many passages given this meaning to the words in question; it must, however, be confessed that this translation is most unsatisfactory; it implies the existence of extra tribal land, a fact most improbable in a country such as Ireland, in which there was no fringe of unsettled lands between the Celtic occupiers and an anterior defeated population; the whole island was divided into distinct and very well-defined tribe districts; neither between the tribe-marks which must have been everywhere conterminous, and still less within their limits, could there have been established independant landholders, disconnected from the prevailing system of society. It is to be observed that the word in these passages translated "tribe" is "coibhne," which is translated "hereditary right" by the same trans-

* Was the forfeiture of the stock absolute in the case of land without a chief or tribe? or did it in this case also depend on the result of the action? Although not without hesitation, we adopt the former theory, viz., that in the case of such lands the stock was absolutely forfeited, because the form of action was inapplicable. That the forfeiture was absolute may be gathered from p. 27, line 24, and p. 31, line 31.

lator in such passages as "land to which he thinks he has an hereditary right" (*coibhne*); and the word *coibhne* itself is frequently used as designating a particular class of property in land, coibhne-land as contrasted with dibadh-land.* The term must signify both the nature of the right of an individual to certain landed property of a particular character, and also the land which was itself the subject matter of such a right. In the original text (page 39) the claims of heirs of females are spoken of as affecting "coibhne"-land, and it may be reasonably concluded that the coibhne-lands were those which had been allocated in severalty to distinct families, and were descendable in the families of the original real (or supposed) præpositus. The tribe lands, being those held in common by the members of the tribe, are manifestly described as the dibadh-lands, in which the share of each occupier was for life only. If this conjecture be correct, the passages in question should be translated "Lands which have not an owner in severalty, and hereditary transmission"; *coibhne*-land would thus be equivalent to the Norse "*udal*"-land; and the same word when used to express the right of an individual to such land (or his share therein) would correspond to the well known term "udal-recht." If this conjecture be correct, much of the apparent difficulties and contradictions in the text and commentary would be

* *Cund*, or *conn*, is simply a form of the word meaning "head," and, as applied to an individual, must be a correlative term, indicating the position of the individual specified in relation to one or more others. The idea implied by the word "coibne" is that of the issuing out and interlacing of various branches springing from one common stock, and it thus means an association of persons grouped together with reference to a common right or subject-matter. This is exactly the ancient idea of the ownership of "hereditary" lands, not land in its entirety transmitted from one individual to another, according to certain rules of succession (which is our modern conception of heirship), but land in which all the descendents of the original acquirer jointly take an interest. This coibne property means property held jointly by the acquirer and his descendents. The head of an actual or potential family would be the cund, or conn; and if the family were organized on the geilfine system, he would be then identical with the "geilfine-flaith." Dibadh property, in its original sense, as contrasted with coibne-property, seems to express any property divisible, or to be divided, among several distinct persons. The necessary equivocal use of such terms is hereafter referred to in a subsequent section.

removed. We find in this tract four distinct classes of land to which the prescribed process of formal re-entry is unapplicable, having reference to the nature of the estate in the land, and not to the locality or intrinsic circumstances; the three more important of these are the following; first, the land described in the text at page 7, in the passage above referred to, as "land which the King divides after the death of the tenant, where a hole is made, where a stone is put"; whatever be the precise meaning of the rule, the text refers to dibadh-land redivisable after the death of each occupier; secondly, "the land of Conn Cetcorach", which also is explained to mean debadh-land, and, thirdly, the land which has not "*cund*" or "*coibhne.*" If the third class of land is simply a negative description of the lands included in the preceding passages, the meaning of all these passages is simple and clear, viz., that the common tribe lands, distributed from time to time among the general members of the tribe for agricultural purposes, and meared by distinct mounds and boundary stones set up by the executive of the tribe, and in which the owner had only transitory interests, were not lands to which the process of recovery of possession by entry was applicable. The fourth excepted class of lands, viz., those subject to the rights of some Nemedh person, are lands upon which the process is rather facilitated than prohibited, in the interest of the claimant. It is a common error to assert that all lands in Ireland under the Brehon Law were held as tribe lands, and that the entire tribe were the owners of the lands comprised in the tribe-district; it is manifest that much land was held in severalty, and upon such terms that individuals had specific rights in distinct lands, either by hereditary descent, or as founded upon contract. It is quite possible that lands should be cut out of the general tribe-land, and become the subject of several ownership and hereditary rights, without their vesting in any individual in absolute property. Portion of the tribe lands may have been acquired by a single family, or by an individual on behalf of himself and his family or possible descendents, and these may have been transmitted

by hereditary succession, or sold without any one person acquiring the rights which are implied by the English term in "estate"; lands may be enjoyed in severalty as between the family and the tribe, but jointly as between the members of the family itself. Such were the principles of the Norse udal tenure of land; and some such system of land-holding seems to be the basis of the Celtic Geilfine system, which it is proposed to deal with in the following section.

A curious exception to the necessary formulæ occurs in the case of individuals described as "*raitech*"-persons. A *raitech*-person is defined in the commentary as one "who was up to this time (*the time of the action*) abroad, *living* apart from the tribe, and who does not know that he has not land, and he comes with his cattle, and his neighbours say the land is his, and judges tell him to go as far as the third of the land" (p. 29).

The *raitech* was therefore an acknowledged tribesman, who, after long absence returned to his tribe, and, upon the information given to him by members of the tribe, proceeded *bonâ fide* to assert his hereditary right to the coibne-lands of his family.

The *raitechs* were divided into three classes; the two first were the man who had got into failure, and the man who had deserted upon failure; both these classes comprise those who had lost, or failed to obtain, any share in coibne-land, and were so to say "out on the road"; the third class of raitech is defined thus, "The King is called raitech, because he owns his share of waifs of his road, and also from his generosity." (Page 31.) The introduction of the King into the class of broken men is probably due to a fanciful play upon words; it may, however, be observed, that the King, who claimed a share in any coibne-lands in a tribe territory, would probably be resident outside, and would find it difficult to carry out the full ceremonial in the prescribed fashion.

The broken man returning to his tribe would find it impossible to drive his horses upon and off the land in dispute at the proper periods; he had no house or "green" of his

own to resort to in the meanwhile; and what was more important, he was not in himself a security for the damages the occupier could recover, if the claim proved to be groundless. He was therefore permitted to graze his horses upon the lands during the intervals between the entries, paying a fixed price for the grazing; and, if the case were decided against him, he was allowed three days to clear out, and, subject to the payment of the small damages of three "seds," he was permitted to drive off his beasts (p. 27).

The original text, and the detached instructions in the commentaries, contemplate the use of horses exclusively in the symbolical entry; and horses appear to have been both the original, and at all times the preferable stock for the purpose. In the gloss an illegal entry is defined as "the bringing illegal means of taking possession into land, *i.e.*, cows after horses when he could find horses," the fine for which was a "cumhal" or forfeiture of stock, or three "seds"; the glossists are at variance as to the precise amount (p. 33). It is evident that at some period cows were substituted for the horses, which in the original ceremony were indispensable. There appears to have been some distinction, certainly, as to the amount of fines, between the case of an entry to recover possession made by a noble, and one made for a similar purpose by a simple freeman, or plebeian, as it is translated. It may be conjectured that this form of action was, in its origin, confined to the recovery of lands by the patrician or noble class, and that the horses and chariot were the symbol of military possession, as was the lance (at later time represented by the wand) in the case of the Romans; that a similar form of action was invented for the benefit of the lower orders, and that ultimately the two formulæ were confounded, although it was always understood that the claimant only used cattle instead of horses from necessity, and that he was not at liberty to substitute them for horses "when he could find horses."

The forms of the Brehon procedure for recovering the possession of land ended with the reference of the dispute to arbitration; the object of the process was that his right

at law should be granted to the claimant; that there should be "Fenichus"; the pressure was put upon the defendant that there might be "Fenechus," a proceeding or judgment in accordance with the custom of the tribe. Thus the whole ceremony of the Roman *actio* ended with the appointment of the *judex*. The ancient procedure ended precisely at the point where the modern commences. As to what is now considered the essential of an action, the pleadings in court, Gaius dismisses it in very brief terms; "deinde quum ad judicem venerant, antequam apud eum causam perorarent, solebant breviter ei et quasi per judicem rem exponere; quæ dicebatur causæ collectio, quasi causæ suæ in breve collectio." (Gaius IV. 15.)

To understand this we require only an account of the mode in which a dispute is decided in an Indian village community. The case is submitted to the entire body of the inhabitants, who represent the original tribe, or family, to the patricians in fact of the small "civitas." The body thus assembled combine in themselves the functions of witnesses, judge, and jury. They include in their number all those who knew the facts of the case, "the respectable men of the neighbourhood," so familiar to us as our ancient form of jury. They themselves are the living testimony as to what is the custom of their community, and this custom they apply to the facts of the case assumed to be within their own knowledge. The villagers talk over the case among themselves, apparently in a very confused manner; separate groups form, who discuss the question in various ways; but at length a result is evolved; there is a general consensus arrived at, and the judgment is given in a purely concrete form. In Mr. Wallace's description of the confused discussion and ultimate result of a meeting of a Russian Mir to assess taxation and divide the village lands, we have a vivid description of the workings of such a primitive assembly. At this stage of civilization it is clear that there was no form of procedure after the submission to arbitration. When the community had grown too large to sit together and decide as one body

upon the case, a committee of the entire body would be appointed to hear and decide the dispute. This stage of the judicial development existed among the Icelandic Norse. Of this procedure there are the most detailed accounts in the two trials before the Althings related in the Saga of the Burnt Njal, and before referred to. In these cases it is evident that the defendants were not bound to submit to the jurisdiction, unless the preliminary ceremonies were accurately gone through, and the judges selected in accordance with the custom. Numerous points of the utmost nicety are raised by the defendants to every step of the action, and equally technical replies are made on behalf of the plaintiffs. These very special points of practice are decided by the general assembly, because they were antecedent to the creation of the court. But it is something very foreign to our ideas that the judges, when at last legally appointed, neither hear any speeches from the parties, nor examine witnesses; they retire from the public meeting, talk the matter over, and come to a decision on grounds wholly apart from what we should consider the merits of the case. When a society became numerous, and its customs complicated, the general public naturally felt their own ignorance of the traditional rules by which any cases should be decided, and there arose a necessity for experts who had made the knowledge of the traditional custom their special study. The Icelandic Norse clung tenaciously to the custom of a public assembly, and solved the difficulty by the appointment of the "Speaker of the Laws," who attended the Althing, and was its professional adviser.* The Celtic Irish lost the ancient custom of the

* "In those days there were no books; everything was traditional; the law itself was committed to memory and the custody of faithful lips. Time out of mind there had existed amongst the nations of the north men who, like Ulfljót, had made the customary law their study, and learned its traditional precepts by heart. There were the lawmen or lawyers (lögmenn), a class which we shall still find flourishing in the time of which our Saga tells. They were private persons, invested with no official character, but who enjoyed all the influence which an exclusive knowledge of any one subject, and, most of all, of such a difficult subject as law, must necessarily give to any man in an early state of society. But when

general assembly, and the decision of what the local custom was, fell into the hands of the Brehons, the hereditary and professional possessors of the secret of the custom. But the Brehon was not a judge in the modern sense of the term; he represented the assembled tribe, and when he had once got possession of the case there were no sacred formulæ to prescribe the mode in which it should be conducted. It is evident that the reference of the dispute to a single individual, in whatever character he acted, necessarily introduced new elements in the procedure; the court no longer could be held not only to decide upon the law, but also to testify what the actual facts were; hence the introduction of pleadings (*causæ collectis*), the full statement of the case (*peroratio*), and the examination of the witnesses, and also the arrangements for the remuneration of the judge. The foundation of the jurisdiction of the Brehon, as simply the professional witness of the local custom applicable to the facts, (and unable to apply to the case, what in English law is termed "equity," the appeal to an over-ruling moral law antecedent to or over-ruling the technical law when it worked injustice,) is illustrated by the rule (page 51), "Constant is every old law of every territory of covenants. When any territory is uncovenanted, it is then every disputed case is brought before the King." By a "territory of covenants" is meant a district in which there was an established custom, supposed to rest upon the "consensus" of the tribe, and which was testified to by the local hereditary Brehon; "territory

the Althing was established, we first hear of a law officer properly so-called. This is what we have called the "speaker of the law." His bounden duty it was to recite publickly the whole law within the space to which the tenure of his office was limited. To him all who were in need of a legal opinion, or of information as to what was or was not law, had a right to turn during the meeting of the Althing. To him a sort of presidency or precedence at the Althing was conceded, but with a care which marks how jealously the young Republic guarded itself against bestowing too great power on its chief officer. He was expressly excluded from all share of the executive, and his tenure of office was restricted to three years, though he might be re-elected at the end of the period." Dasent, Burnt Njal, p. lvi.

The judicial power in Iceland was vested in the Court of Laws, composed of the priestly heads of the original families, each with two assessors, whom the official lawyer instructed upon any point of law, if requested to do so.

uncovenanted" is glossed "where the defendant or plaintiff has not a Brehon," that is, when the community has failed to retain a record of their customs by the appointment of the regular witness to the existence and nature in the person of the Brehon; in such a district there was no law to be applied to the question in dispue. In this case therefore the King himself was the judge. From this passage we may infer that at a very early date the general meeting of the tribe, which did continue to meet for some purposes down to a late period, had lost its judicial power, and that the King had acquired the powers and position of the assembly of the tribe, or, which in this case is more probable, there still hung about him certain surviving fragments of his ancient judicial function.

When a professional or hereditary class undertake the duty of recording and transmitting the customs of the tribe, the hitherto indefinite custom, or habit of acting in a particular manner, is necessarily reduced to the form of short rules committed at first to memory, subsequently to writing. Two fragments of these ancient dicta occur in the present tract (p. 39 and p. 45). The difficulty of translating passages of this nature has already been referred to, but, difficult as is the task of translation, more so is the attempt to extract from them and develop at length, the customary rules dimly hinted at, rather than embodied, in the curt and oracular sentences. An attempt is here made by the assistance of the glosses and commentary to express in distinct terms the substances of these passages. The following is submitted to the criticism of the reader by the editors, as a result of such a comparison, but made by those who can claim the possession of no source of information, which is not available to the ordinary student.

(I.)

1. The sons, and, if there are no sons, the daughters of their mother, claim a right to enter upon and take possession of the lands, in respect of which legal contracts for full consideration, and dealing with coibue-land, had been

made with their mother, for the geilfine chief, who must for this purpose be one of the geilfine division,* confirms the contract.

2. Brigh made the decision, which fixed the rule of succession to lands in respect of which contracts had been entered into upon the occasion of a woman's marriage.

3. The lands are divisible with reference to the number of the members of the family inclusive of the grandchildren, and the great-grandchildren, but of the land thus divisible is excepted one-seventh, which becomes the property of the geilfine chief. This one-seventh is fixed with reference to the extent of the lands themselves.

4. On the extinction of the class of great-great-grandchildren, their land goes back to the other classes representing the three prior generations; in such case it is divided among the classes representing the three prior generations; on the extinction of the great-great-grandchildren class the other classes of the family became the owners. It is not divided among them in other proportions than the liability for the wrongs done by members of the family; and, therefore, in such a case the class representing the sons gets no more than one-fourth part.

5. When the members of a family exceed seventeen in number, they cease to be organized as a family.

6. The fuidhir-tenants are not subject to any joint liability for wrong committed by their kinsman, unless they form five house-holds of them, completely organized as a family, upon the principle of mutual liability.

7. If the fuidhir tenants consist of five households, organized as a family, under a chief, and having sufficient stock, they divide their property among them, as do the members of the family, and are subject to liability for each other's deeds in the same proportion.

* It is subsequently suggested that the expression, "Unless he be the sixth," may be taken in its literal sense as meaning the sixth head of the family in lineal descent, a construction of the words which, in the view subsequently taken of the geilfine, would be practically equivalent to that in the text.

(II.)

1. A son does not succeed to all the land of his mother, unless he claim it through her by virtue of a marriage contract of which the family had notice (*i.e.*, unless it be "*cruibh*" or "*sliasta*" land).

2. (As to lands other than "*cruibh*" or "*sliasta*" lands), her sons divide it upon her death, but (*they do not succeed to the entire*) for one-half reverts to the family of the (*her*) father; the remaining half only her sons divide.

3. The half, which reverts to the family of the (*her*) father, the members of that family duly divide among themselves.

4. In the case of a "*bo-aire*" chief (who dies without leaving a son) there comes to his daughter by right of relationship no more than one-half, *i.e.*, fourteen "cumhals" of land if the deceased had twenty-eight "cumhals" of land. The same rule applies to the "bratach" lands of a "bo-aire" chief.

5. Land given by the family to the deceased to the used as a road, upon the terms of his restoring it, is to be restored by his daughter, if she succeed, in its entirety; but she is to be paid by the family upon giving it up, one half the value of it.

Of these rules, those numbered I., 1–5 appear to relate to the mother's *cruibh* and sliasta lands, and are framed with the view of regulating that succession in accordance with the principles of the geilfine organization, which are subsequently discussed in this Introduction. The rules numbered II., 1–3 deal with the succession to a woman's other than cruibh and sliasta land; and those numbered II. 4 and 5 deal with the succession of a daughter, in default of sons, to her father's land. The very remarkable rules, I. 6 and 7, do not appear to have any immediate connexion with the question of female ownership of land. It would be premature here to consider the meaning and operation of these rules until the nature of the family itself and of the geilfinne system has been to some extent established, and the proposed explanation of the system of descent is, therefore, postponed to a subsequent section.

It remains to draw attention to some isolated rules in the latter portion of this tract as illustrative of the nature and date of the Brehon Law. The first paragraph, to which attention is desired to be drawn, is the case of Seither in the original text (page 17). She claimed as against the chiefs of the tribe, certain lands which they had taken possession of; the glosses explain this by their having erected boundaries, or set up stone landmarks; comparing this with the passage in page 7, where "dibadh" land is described as "the land which the chief divides after the death of the tenant, where an hole is made (or, *a mound is raised*), where a stone is put," her ground of complaint was that the chief of the tribe had measured off as common tribe property, the land which she claimed in separate ownership. Her father and mother were of different tribes, and her right to the land was established. She then sought that she should not be subjected to the imposts which fell upon the unfree holders of land (*"fuidhirs"*), nor should she be expelled from the land (put out into the road), for failure to perform the military duties incident to the possession of the land. She was freed from this obligation (of military services) by her tribe, according to the rule "that female possession reverts, *i.e.*, that one-half of the land, which passed to a woman, falls back into the general tribe land, and that in consideration of this the tribe releases the residue during the female owner's life from the duties incident to the possession.* It is clear from this rule that

* These rules, as far as they deal with the succession of women to land, or the succession to the land of women, must be taken to represent the effect of the judgement of Brigh which established the rights of women.

The rule that women, as being incapable to do military service, should forfeit one half of the inheritance, could be introduced only after a date at which the military incapacity of women was an acknowledged fact.

This would bring down the alteration of the law of succession in the favour of women to a date subsequent to the year 697. "Connected with Adamnan's journey to Ireland in 697, the Annals record a transaction, which they despatch with enigmatic brevity: *Dedit legem innocentium populis.* In other words, they allude to a social reformation, which was brought about by Adamnan, and which, having obtained the highest sanction of the people, became, as in the case of many modern Acts of Parliament, associated with the name of the propounder. A synod was convened at Tara, within an enclosure called the *Rath-na-Senadh*, or "Rath of

the possession of any portion of the tribe land entailed the duty of military service; but that this was an incident to the possession of land by a free member of the tribe (as the "trinoda necessities" of the early English Law), not a feudal service due to the chief of the tribe. The contradictory glosses upon this passage prove that the commentators were unable to explain the point of the division, and that the condition of society had then materially changed since the date of the original text. The note to this passage, printed at the foot of page 17, shows how the later commentators had lost the correct traditions of the law, and preferred the display of a scrap to genealogical information

the Synods," where the memory of the chief actor was perpetuated in the name *Pupall Adhamhnain*, or "Pavillion of Adamnan," which was given to a portion of the space; also in the *Suidhe Adhamhnain*, or Adamnan's chair; the *Dumha Adhamhnain*, or Adamnan's mound; and the *Cros Adhamhnain*, or Adamnan's cross, situated at the east of the Rath. This moṙṫail, or "convention general," was held, as a semi-legendary record states, at the instance of Adamnan, for the purpose of procuring a national enactment exempting women from war and expeditions." "Reeve's Life of St. Columba," p. 1.

In relation to this law the following passage occurs in the "Vision of Adamnan," which is preserved in the "Leabhar Breac":—"It was this precept, too, which was preached in the great convention of the men of Erin, when Adamnan's rule was put on the Gaedhil, and when women were made free by Adamnan, and Finachta Fledach, son of Dunchadh, son of Aine Slaine, the King of Erin, and by the men of Erin also. For it was alike that men and women went into battle, and into conflicts, until the Rule of Adamnan was imposed."

"It is to be regretted that we have not a more historical account of the institution of this law than the following, which is taken from the Leabhar Breac and Book of Lecan:—'Adamnan happened to be travelling one day through the plain of Bregia with his mother on his back, when they saw two armies engaged in mutual conflict. It happened then that Ronait, the mother of Adamnan, observed a woman, with an iron reaping-hook in her hand, dragging another woman out of the opposite battalion, with the hook fastened in one of her breasts; for men and women went equally to battle at that time. After this Ronait sat down, and said, 'Thou shalt not take me from this spot until thou exemptest women for ever from being in this condition, and from excursions and hostings. Adamnan then promised that thing. There happened afterwards a convention (moṙṫail) in Ireland, and Adamnan, with the principal part of the clergy of Ireland, went to that assembly, and he exempted women at it." (Petrie's Tara, p. 147.) Reeves' Life of St. Adamnan, p. 179, note. It seems that Adamnan took occasion of a great religious revival to ameliorate the condition of the Celtic woman, and that the reform thus effected was considered as one of the great events, as it undoubtedly was, in early Irish history. The celebrated judgment of Brigh, certainly the rules embodied in this tract, cannot have been of an earlier date.

to the intelligible explanation of their text. Evidently for the purpose of getting in the names of her brothers, it is stated that she claimed against her brothers; the author of this cannot have understood the first line of the original text which is very clearly explained in the gloss; and the possibility of an adverse claim by a sister against brothers in respect of land derived either through the maternal or paternal side, is absolutely at variance with the express rule laid down in the commentary, page 15, line 33.

When the authentic tradition of the custom was once affected by the changes in the existing modes of life and dealing with property which must have arisen from the political convulsions to which the Irish Celtic nation was subjected during the historic period, the Brehon lawyers had no definite and abstract legal principles to guide them, and the analogies which they may have discovered in the Ecclesiastical and English systems, with which they came in contact must have been essentially misleading. There is, therefore, no reason to doubt the fact, which is patent upon the face of their writings, that the Brehon lawyers found much difficulty in dealing with the ancient texts, and have annexed to them the most varying and contradictory explanations.

In most early customary laws the validity of any transaction usually depended upon the performance of some prescribed mode of stipulation; the following passages are, therefore, worthy of notice as indicative of a very modern and equitable mode of viewing the essence of the transfer of property: "(*As to*) the person who buys without stealing or concealment, with purity of conscience, it (*the subject matter of the purchase*) is his lawful property, according to God and man; if his conscience is free, his soul is free."* There is in this passage an assertion of the doctrine of a purchase for valuable consideration without notice, and the title of the purchaser is referred to his moral condition at the date of purchase, not to the fulfilment of the requisite ceremony of purchase. The same idea is evident in the following passage, also: "Except the covenants which are forbidden by the Feini, nothing is due without deserving

* Page 33.

it, for every contract, which is unsafe, is entitled after nuptial present according to the Brehon, except in case of poverty, or prohibition, or want of power."*

In this passage there are involved the doctrines of consideration as the necessary basis for a contract, of purchase for valuable consideration and part performance, and of the rescission of the contract by an inequality in the condition of the parties which in equity would now cause an agreement to be set aside, or specific performance to be refused. In the latter portion of this paragraph "poverty" must mean such pressure of poverty upon one of the contracting parties as would prevent his acting as a perfectly free agent; and "prohibition," according to the gloss, the fact of notice affecting the purchaser that the vendor has no equitable title; "want of power" is explained as duress, or influence of a moral or immoral character.

There are other passages in this tract which lay down in a direct manner the ancient theory of society that the individual exists only as a member of some recognised community and therefore that his contracts are always subject to rescission by the head of the community to which he belongs. "There are four covenants which are not binding, though they (*the parties*) are proceeded against; *that of* a bondman with his chief; *of* a son with his father; of a monk with his abbot; *of* an "ulach" person with another if alone. For the chief, and the tribe, and the church may redeem (*rescind*) every good contract, and every bad contract which are made with their subjects, except what they themselves order them; for these are the three defective covenants mentioned by the Feini; the covenant with the subject of a church; the covenant of a servitor of a chief; a covenant with fugitives from a tribe."† The principle here laid down is clear and distinct, but even at the date of the original text it had become modified by the application of equitable principles, for the passage concludes thus: "They are bound not to be remiss about covenants,

* Page 59.

† Page 55. This statement, or one almost identical, is frequently repeated in the Brehon Law Tracts.

because if they should be remiss about covenants, then they do not annul the covenants of their subjects," which is an application to the case of the equitable doctrine of laches.

This passage is followed by a very obscure paragraph dealing with what are styled "*ternal covenants,*" not agreements in our sense of the word but the legal results arising from the acts or omission of three persons in a certain relation. It is suggested that the passage may be illustrated thus; A contracts with B that the latter should do something affecting C, or which C may forbid to be done, and C having notice of the transaction does not interfere; and thereupon by reason of C's omission to do so the contract becomes binding upon him. This principle, (if our explanation of the passage is correct), is an excellent example of the equitable doctrine of "acquiescence."

The latter portion of this tract must be considered as a mere common place book of some Brehon, who wrote out in the blank pages which followed the first part, a number of independent dicta, as he learnt them, or as they occurred to his memory; very few of these rules have any connection with the subject-matter of the original work; there is little, if any, sequence of thought, and they manifestly are of very different origin in point of date; this latter portion is however valuable both on account of the very ancient rules as to the succession to land which are here preserved, and as illustrating the extent to which the ancient law was modified by equitable principles, a result doubtless attributable to the indirect influence of the civil law.*

* "They speak Latin like a vulgar language, learned in their common schools of leachcraft and law, whereat they begin children and hold on sixteen or twenty years, conning by rote the aphorisms of Hippocrates *and the Civil Institutes*, and a few other parings of these two faculties. I have seen them where they kept school, ten in some one chamber, grovelling upon couches of straw, their books at their noses, themselves lying prostrate, *and so to chant out their lessons by piecemeal*, being the most part lusty fellows of twenty-five years and upwards." Edd. "Campion's account of Ireland," page 18 (A.D. 1571).

Mr. Prendergast goes so far as to speak of the Brehon as giving "his judgment according to the Brehon Code, formed partly of Irish customs, and partly of maxims culled from the Roman *Digest.*" (The Cromwellian Settlement, 2nd edition, p. 15.) This is an exaggeration, fortunately for the antiquarian value of the Brehon Law Tracts.

III.

The "Fine" and the "Geilfine" System.*

In all the Brehon Law Tracts there are references to an existing organization, generally known as the Geilfine system, and to the four classes designated as the Geilfine, Deirbhfine, Iarfine, and Indfine.† No distinct explanation of the system is anywhere given by the writers of these tracts, but it is everywhere assumed as existing, and of so well-known and notorious a character that it did not seem to our authors necessary to state its details or to lay down the rules by which it was governed. That it was familiar, or assumed to be familiar, to the students of these works is proved by the figurative use of the terms primarily indicating the members of this system as indicating certain definite relations of place; remarkable passages of this nature occur in the "Bee-Judgments"‡ and the "Right to Water."§ It is obviously impossible to understand the scope or meaning of many of the rules contained in the original text, or of passages in the commentary, without forming some clear conception of this peculiar organization of individuals assumed throughout, as pre-existing, and endeavouring to define the technical terms connected with this system, which so often occurs, used sometimes in a primary, and sometimes in a secondary sense. In the Book of Aicill, published in the last volume of the Brehon laws, there occurred a very remarkable passage, explanatory of the mode in which property was divisible among the members of a family in

* It was originally intended to have devoted a separate section of the Introduction to each of the Tracts contained in this volume; it was, however, discovered in the progress of the work, that owing to the identity of the questions which arose in certain of these Tracts, it was impossible to adopt this course without much repetition of previous statements, or an embarrassing amount of cross references. The sections III., IV., and V. of the Introduction are designed as dealing with the questions which arise upon the Tracts entitled "Of the Judgments of every Crime, &c.," "The Land is forfeited for Crimes," and "The Divisions of the Tribe of a Territory," and also with the rules of succession contained in the first Tract in the volume. The consideration of the remaining Tracts has been necessarily postponed until after the discussion of the question of the "geilfine" system.

† This word sometimes appears as "Innfine" or "Finnfine."

‡ p. 173. § p. 207.

accordance with the rules of the Geilfine system,* and an attempt was made in the Introduction to that volume, to explain the rules laid down upon this subject in the commentary upon the Book of Aicill.† The explanation given by the editors of the preceeding volume of the passage, with which they were immediately dealing, has been to that extent admitted to be correct by the various authors, who have, since the date of the publication of the last volume, written upon the subject; and before any attempt to draw further deductions from the additional information, which is afforded by the law tracts now for the first time published, it may not be inexpedient to reprint the passage in the previous introduction dealing specially with this subject.

"The most remarkable custom described in the Book of Aicill is the fourfold distribution of the family into the 'geilfine,' 'deirbhfine,' 'iarfine,' and 'indfine' divisions. From both the text and the commentary it appears that the object of the institution did not extend further than the regulation of the distribution of their property. Within the family seventeen members were organized in four divisions, of which the junior class, known as the 'geilfine'-division, consisted of five persons; the 'deirbhfine' the second in order, the 'iarfine' the third in order, and the 'indfine' the senior of all, consisted respectively of four persons. The whole organization consisted, and could only consist of seventeen members. If any person was born into the 'geilfine'-division its eldest member was promoted into the 'deirbhfine'; the eldest member of the 'deirbhfine' passed into the 'iarfine'; the eldest member of the 'iarfine' moved into the 'indfine'; and the eldest member of the 'indfine' passed out of the organization altogether. It would appear that this transition from a lower to a higher grade took place upon the introduction of a new member into the 'geilfine'-division, and therefore depended upon the introduction of new members, not upon the death of the seniors. The property held by any class, or by its members as such, must have been held for the benefit of the survivors or survivor of that class; but, upon the extinction of a class, the property of the class or of its members as such passed to the surviving classes or class according to special and very technical rules.

"On the failure of the 'geilfine'-class, three-fourths of its pro-

* p. 330. † p. cxxxix.

perty passed to the 'deirbhfine,' three-sixteenths to the 'iarfine,' and one-sixteenth to the 'indfine'-class.

"On the failure of the 'deirbhfine'-class, three-fourths of its property passed to the 'geilfine,' three-sixteenths to the 'iarfine,' and one-sixteenth to the 'indfine.'

"On failure of the 'iarfine'-class three-fourths of its property passed to the 'deirbhfine,' three-sixteenths to the 'geilfine,' and one-sixteenth to the 'indfine.'

"On failure of the 'indfine,' three-fourths of its property passed to the 'iarfine,' three-sixteenths to the 'deirbhfine,' and one-sixteenth to the 'geilfine.'

"On failure of the 'geilfine' and 'deirbhfine'-classes, three-fourths of their property passed to the 'iarfine,' and one-fourth to the 'indfine.'

"On failure of the 'indfine' and 'iarfine,' three-fourths of their property passed to the 'deirbhfine,' and one-fourth to the 'geilfine.'

"On failure of the 'deirbhfine' and 'iarfine'-classes, three-fourths of their property passed to the 'geilfine,' and one-fourth to the 'indfine.'

"On failure of the 'geilfine' and 'indfine,' three-fourths of the property of the 'geilfine' passed to the 'deirbhfine' and one-fourth to the 'iarfine'; and of the property of the 'indfine,' one-fourth passed to the 'iarfine,' and one-fourth to the 'deirbhfine.'

"Two possible combinations of two extinct classes, viz.:—the 'geilfine' and 'iarfine,' and the 'deirbhfine' and 'indfine,' are omitted from the commentary. It would appear that upon the failure of any two classes the whole organization required to be completed by the introduction of a sufficient number into the 'geilfine'-class and by promotion carried on through all the classes upwards; and if there were not forthcoming sufficient persons to complete the organization there was no partition among the surviving two classes, but the property went as if the deceased were not members of an organization at all. The rules as to the distribution of property upon the extinction of any one class or of any two classes may be understood from the annexed diagram.

		1	2	3	4	5	6	7	8		(9)		(10)	
Indfine, .	16	1	1	1	0	8	0	8	0		0		4	4
Iarfine, . .	16	3	3	0	12	24	0	0	4	12	12	4	12	12
Deirbhfine, .	16	12	0	12	3	0	24	0	12	4	0		0	
Geilfine, .	16	0	12	3	1	0	8	24	0		4	12	0	

The rule upon which the distribution of the property of such an organization depends appears clearly from the above diagram.

Let it be assumed that each class possesses property represented by the figure 16. The class or classes extinct are denoted in the subsequent columns by a cypher, and the distribution of the property of the extinct class or classes is indicated by the numbers set opposite the names of the surviving classes. Three-fourths of the property of any extinct class pass to the next junior class, and in default of any junior surviving class, to the next senior class. The remaining one-fourth is treated in the same manner. If, exclusive of the class which has received its share, there remains but one class, the residue passes to that class, but if two classes survive, three-fourths of the residue pass to the next junior class, and, in default, of such class, to the next senior class; and the residue, one-fourth of a fourth, or one-sixteenth of the entire, goes to the remaining class. If two classes become extinct, the property of each is distributed according to this rule, in which case, if the two classes which become extinct are next to each other, the distribution of the property of both is identically the same; but if the extinct classes are not next to each other, the property of each is distributed to the remaining classes in varying proportions. It is evident from the commentary that the original principle, however it arose, had been forgotten, so that the distribution contained in column 8 of the above diagram is very awkwardly expressed, and the cases in columns 9 and 10 are altogether omitted. The meaning of this very artificial arrangement appears from the following passage :—'If the father is alive and has two sons, and each of those sons has a family of the full number—*i.e.*, four—it is the opinion *of lawyers* that the father would claim a man's share in every family of them, and that in this case they form two 'geilfine'-divisions. And if the property has come from another place, from a family outside, though there should be within in the family a son or a brother of the person whose property came into it, he shall not obtain it any more than any *other* man of the family.' From this it appears that the whole organization existed within the family, and consisted of the actual descendants of a male member of the family, who himself continued in the power of the head of the family. As soon as a son of the house had himself four children, he and his four children formed a 'geilfine'-class, and each succeeding descendant up to the number of seventeen was introduced into the artificial body. The entire property exclusively belonging to this family within a family was confined to the members of the organization until the number exceeded seventeen, when the senior member lost his rights to the separate estate, retaining those which he possessed in the original family.

"This arrangement must be regarded as an invasion of the archaic form of the family, and an introduction *pro tanto* of the idea of separate property. How or when the system arose we have no information, but arrangements equally complicated have been elaborated in the evolution of customary law.

"If it be admitted that the parent and his first four children (or sons) form the original 'geilfine'-class, it may be conjectured that the term 'geilfine'-chief, so often occurring in the Brehon law, indicates a son of the head of the family, who has himself begotten four children (or sons), and thus founded as it were a family within a family; and further, that, as upon the death of the head of a family each of his sons would become the head of a new family, the 'geilfine'-relationship in such an event would disappear, and its members would resolve themselves into a family organized in the normal manner. It may be conjectured that the parent always continued in the 'geilfine'-class, and that therefore it contained five members, although the other classes comprised four only, and that hence was derived the peculiar title of 'geilfine'-chief."

In this passage the system was accepted as a very singular institution, regulating the distribution of the property of a family; no attempt was made to account for the existence of rules so unusual, although it is obvious, that the mere existence of rules so complicated and in themselves so unreasonable must be referable to some anterior social system, as is the case with the rules of the English law dealing with the succession of real estate. Three distinct theories as to the origin and working of this system have been published since the date of the last volume of the Brehon Law Tracts, by Sir H. S. Maine in his Lectures on the Early History of Institutions; by Dr. W. K. Sullivan in his introduction to the Lectures of the late Eugene O'Curry; and by Mr. J. F. M'Lennan in an appendix annexed to the last edition of his work upon Primitive Marriage, and entitled the "Divisions of the Ancient Irish Family."

So numerous and important are the references to the Geilfine system in the tracts comprised in the present volume, so radically does this system underlie the organization of the family, and the succession to land, to illustrate which, the

majority of the tracts now published have been specially selected, that it may not be considered an abuse of the restricted duties of an editor to explain the views upon this subject put forward upon such distinguished authority, and to state the objections to the reception of any of them in its integrity, before an attempt is made to propound a theory of the origin and working of the system, wholly deduced from the Brehon Law Tracts themselves, and which, although not in itself to be assumed as correct, as no modern explanation of so archæic an institution could claim to be, is at least consistent with the authorities and in itself; and affords a key to the rules as to the succession to land, scattered throughout the present volume.

The views of Sir H. S. Maine upon this subject are clearly put forward by him in the following passages selected from his work:

"Any member of the joint-family, or sept, might be selected as the starting point, and might become a root from which sprang as many of these groups of seventeen men as he had sons. As soon as any one of the sons had four children, a full Geilfine sub-group of five persons was formed; but any fresh birth of a male child to this son or to any of his male descendants, had the effect of sending up the eldest member of the Geilfine sub-group, provided always he were not the person from whom it had sprung, into the Derbhfine. A succession of such births completed in time the Derbhfine division, and went in to form the Iarfine, and the Indfine, the After and the End-families. The essential principle of the system seems to me a distribution into fours. The fifth person in the Geilfine division, I take to be the parent from whom the sixteen descendants spring, and it will be seen, from the proviso which I inserted above, that I do not consider his place in the organization to have been ever changed. He appears to be referred to in the tracts as the Geilfine chief.*

"The Irish family is assumed to consist of three groups of four persons, and one group of five persons. I have

* Early History of Institutions, p. 210..

already stated that I consider the fifth person in the group of five, to be the parent from whom all the other members of the four divisions spring, or with whom they are connected by adoptive descent. Thus the whole of the natural or adoptive descendants are distributed into four groups of four persons each, their rank in the Family being in the inverse order of their seniority. The Geilfine group is several time stated in the Brehon Law to be at once the highest and the youngest.

"Now Mr. W. Stokes has conveyed to me his opinion that 'Geilfine' means 'hand-family.' As I have reason to believe that a different version of the term has been adopted by eminent authority I will give the reasons for Mr. Stokes' view. 'Gil' means 'hand'—this was also the rendering of O'Curry—and it is in fact the Greek χείρ. In several Aryan languages the term signifying 'hand' is an expressive equivalent for power, and specially for Family or Patriarchal Power. Thus in Greek we have ὑποχείριος and χέρης, for the person under the hand. In Latin we have *herus* 'master,' from an old word cognate to χείρ; we have also one of the earliest cardinal terms of ancient Roman Family Law, *manus*, or hand, in the sense of Patriarchal authority. In Roman legal phraseology the wife who has become in law her husband's daughter by marriage is *in manu*. The son discharged from Parental Power is *emancipated*. The free person who has undergone manumission is *in mancipio*. In the Celtic languages we have, with other words, 'Gilla,' a servant, a word familiar to sportsmen and travellers in the Highlands, and to readers of Scott in its Anglicised shape 'Gillie.'

"My suggestion, then, is that the key to the Irish distribution of the Family, as to so many other things in ancient law must be sought in the Patria Potestas.* It seems to me to be founded on the order of emanciption from Parental

* The use by Sir H. S. Maine of the term "*patria potestas*" is very infelicitous as basing his theory upon a doctrine of the Roman Law, which their own lawyers admitted to be peculiar and exceptional. The more general term "headship of the joint house" may, however, be substituted for it without injury to the argument.

Authority. The Geilfine, the Hand-family, consists of the parent and the four natural or adoptive sons immediately under his power. The other groups consist of emancipated descendants, diminishing in dignity, in proportion to their distance from the group, which according to archæic notions, constitutes the true or representative family.

"The remains, which we possess, of the oldest Roman Law point to a range of ideas very similiar to that which appears to have produced the Irish Institution. The family under the Patria Potestas was, with the Paterfamilias, the true Roman Family. The children who were emancipated from Paternal Power may have gained a practical advantage, but they undoubtedly lost in theoretical dignity. They underwent that loss of status which in ancient legal phraseology was called a capitis diminuto. We know too that according to primative Roman law they lost all rights of inheritance, and these were only gradually restored to them by a relatively modern institution, the equity of the Roman Prætor. Nevertheless there are hints on all sides, that, as a general rule, sons as they advanced in years were enfranchised from Paternal Power, and no doubt this practice supplies a partial explanation of the durability of the Patria Potestas as a Roman Institution. The statements therefore which we find concerning the Celtic Family would not be very untrue of the Roman. The youngest children were first in dignity."*

The entire geilfine system rests according to this view upon the *patria potestas* of the original progenitor without any reference to common property; the members are those up to the number of sixteen, who are the subject of the *patria potestas*, whether sons or remoter descendants, either by actual descent or adoption, and irrespective of age or the possession of property. It may be inferred that in Sir H. S. Maine's opinion the existence of the common ancestor is essential for the maintenance of the system, and that he regards all the members as living at the same time.

The theory of Dr. W. K. Sullivan is very different, and is contained in the following passage of his work:

* Id., p. 216.

"The whole *Fine Duthaig* included several stages of consanguinity;—(1) the *Cindfine* or children the sons having the foreright;—(2) the *Bruindfine*, from *bruind*, the womb, the sons and daughters of heiresses or daughters of the *Gradh Fine*, or nobility inheriting property in their own right; (3) the *Gelfine*, which seems to have been sometimes used for all relatives to the fifth degree, and sometimes for the relatives to the fifth degree exclusive of the direct heirs. These constituted the family in the strict sense of the word. From the *gelfine* branched off, (4) the Derbfine, which included relatives from the fifth to the ninth degree; (5) the *Iarfine*, or relatives from the ninth to the thirteenth degree; and (6) the *Indfine*, or relatives from the thirteenth to the seventeenth degree. Beyond the latter degree, the *Fine* merged into a *Duthaig Daine*, that is, the nation at large, who were not entitled to a share of the *Dibad*, or property of deceased persons, or liable for the payment of fines or americaments on account of crimes, etc., except those of their own special *Fine*, within the recognised degrees of consanguinity. The *Gelfine* were the representatives of the rights and liabilities of the family or house; they formed a kind of family council styled *Cuicer na Fine*, or the five *Gials*, or pledges of the family. As they represented the roots of the spreading branches of the family, they were also called the *cuic mera na Fine*, or the five fingers of the *Fine*. When property, in default of direct heirs, passed to collateral heirs, the *Gelfine* received the inheritance in the first instance, and assumed all the responsibilities attached to it. In default of relatives of the fifth degree, the property passed to the representatives of the other *Fines*."*

This opinion of Dr. W. K. Sullivan has been adopted by Mr. W. E. Hearn, who after citing the Welsh rule of inheritance, viz., "The ancestors of a person are his father, and his grandfather, and his great grandfather; the co-inheritors are his brothers, and cousins, and second cousins,"†

* Manners and Customs of the Ancient Irish, Vol. I., p. clxiii.

† Ancient Laws of Wales, Vol. II., p. 427.

proceeds thus: "We may observe, I think, a similar case in the difficult case of the Irish *Fine*. The ingenuity of the Brehon professors multiplied distinctions which are not found in the laws of other countries, and it is not easy distinctly to understand their writings on this subject. I venture however to suggest that '*Fine*,' like Familia, was used in various senses, and included both the more limited and wider bodies; that of the six kinds of *Fine* enumerated in the Brehon Laws, the first three include the *Sui heredes* and *Agnati*, and that the remaining three are subdivisions, how far practically important we cannot tell, of the Gentiles. The Geil-fine included the fifth descent, which, if the *Ego* were not counted, brings us to the sixth descent as in other cases. The other three *Fines* taken together, extend to the seventeenth degree, at which point all traces of kinship are assumed to be lost."*

If this view be correct the Geilfine system is simply a mode of calculating kinship; the Geilfine has no existence as a social entity; the particular *Fine* in which any individual should be classed depends altogether upon the person, who is assumed as the *stirps*; it would also seem that the five members of the *Geilfine* class, and the four members of the other three classes are not considered by these authors as "individuals" but as successive generations, and that the original ancestor is altogether excluded; and it also must manifestly follow that the members of the four classes could not possibly co-exist.†

* The Aryan Household, p. 173.

† Authors, who speak of property as being divisible among relations in the seventeenth degree, cannot have considered the difficulty, or impossibility of ascertaining kinships so remote, or the consequences which would probably result could all the relatives of this remote degree be once ascertained. It would be necessary, for such purpose, to trace up seventeen male descents for the purpose of discovering the stirps, and in the second place to complete the requisite genealogical table of all the male descendants of the stirps throughout seventeen generations downwards. The stirps, upon the ordinary average of human life, must have been dead upwards of 500 years, and there is no existing noble or royal family in which this inquiry could be attempted with any prospect of success.

Thus the relatives in the seventeenth degree of the Count de Chambord include all the descendants of Louis, the first Duke of Bourbon, son of Robert of Clarement, and grandson of Saint Louis, who died in A.D. 1341. Those of the present

The theory of Mr. M'Lennan upon this subject is different in every respect from those of Sir H. S. Maine and Dr. W. K. Sullivan. The two cardinal assumptions upon which he proceeds are, (1) that the terms geilfine, derbhfine, iarfine and indfine are correlative, and that, therefore, the four classes of the system must exist from the inception; (2) that the arrangement was founded upon the possession, and intimately connected with the distribution of property; (3) and that the members of the groups included only certain of the members of the family.

The geilfine system according to this view originated in the existence of *four* persons, related in the same degree to the original *stirps;* each of whom was the primary member of one of the four classes, and as a necessary result the Father or *stirps* was excluded from the organization, and the subsequent members of each class were the lineal descendants of the original member of that class.

"If we conceive one of the organizations, initiated as in the case pronounced upon by the lawyers, to be completed (1) through the death of the Father, and his two sons leaving a set of four grandsons in their places, each as the eldest member of his division; and (2) through the filling up of the divisions by the birth of descendants to the several grandsons, the following table will then represent the organization :—

Indfine.	Iarfine.	Deirbhfine.	Geilfine.	
A^1	A^2	A^3	A^4	Fathers and Brothers.
B^1	B^2	B^3	B^4	Sons and First Cousins.
C^1	C^2	C^3	C^4	Grandsons and Second Cousins.
D^1	D^2	D^3	D^4	Great Grandsons and Third Cousins.
—	—	—	E^4	Great great Grandsons.

German Emperor include all the descendants of Frederick IV., Burggraf of Nurnberg, who died in 1332. As to their probable number when discovered, it is a matter of geometrical progression. If we consult the pedigree of David it will appear that, as seventeenth in descent from Reu, he counted among his relatives within the seventeenth degree the entire nations of the Jews, Edomites, Ishmaelites, Moabites, Ammonites, Midianites, and several others.

"The seniors of the division are A^1, A^2, &c., the brothers who constituted the 'family of the full number, *i.e.*, four'; and the other men in the divisions along with them respectively, are their first-born sons, grandsons, &c. A^1 is the eldest of the four brothers, A^2 the next eldest, and A^4 is the youngest. The following features of the system now become intelligible:—

"1. It is at once obvious why it is said the geilfine division is the youngest, and the indfine division is the oldest.

"2. We can see a reason why, as a rule, there should be four men only in a division, and why there should be a fifth man in the geilfine division. The age of marriage among the ancient Irish was seventeen years—the age for finishing fosterage. Thus A^1 would be at least fifty-four years old before his great grandson D^1 would be born; he would be between eighty and ninety years old before E^4 could have a son; which would be the signal to A^1 to 'go out of the community.' As a rule then, there could be only four generations of *men* in existence at a time, and represented in the divisions. The fifth man, or rather boy, in the geilfine division must have been added to postpone the going out 'into the community' of the senior of the indfine. When he went out, he became, as we shall see, a pensioner on his division, and were he to go out when E^4 was born, he might be a charge on that division for a term of years. Before E^4 could have a son, however, A^1 would be a very old man. Indeed, the 'going out' must have been rare. The law, however, provided for it, as it did for the divisions not being full, and even for their becoming extinct. Whatever the purposes of the organization were, the existence of the whole number of the seventeen men was not essential to them, and in the eye of the law a division existed so long as there was one man in it (Senchus Mor, Vol. III., p. 333).

"3. So far as the organization was an artificial institution, it may have been a sufficient reason for limiting the number of divisions to four, that there were four men only in a division. More probably the reason was that four was, on the average, the full number of sons in a family.

"4. We have a clue to the 'self-acting principle,' as Sir

Henry S. Maine aptly calls it, according to which the oldest member of each division passed into the next, on a new man 'coming up' into the geilfine division. Among the Irish the next brother, or other nearest male agnate next in seniority to a deceased chief, succeeded to the chieftaincy in preference to a son. We can, therefore, understand how they should provide for the succession of brother to brother, in order of seniority, in the headships of divisions; and failing brothers for the succession of cousin to cousin (of the same class) in order of seniority. It accords with this succession law that when A^1 'went out,' A^2 should succeed to him as head of the indfine division, that A^3 should succeed A^2 as head of the iarfine, and A^4 succeed A^3 as head of the derbhfine. But we saw that before A^1 went out he would be very old. Before another 'going out' could occur through the birth of a grandson to E^4 the brothers would certainly be all dead, and the first cousins, B^1, &c., would be the heads of divisions. It would be next B^1's turn to go out, and he would be succeeded in the headship of the indfine division by B^2 as the cousin next in seniority; and B^2 being succeeded by B^3, and B^3 by B^4 all the seniors would be promoted as before. By the fourth occurrence of such an occasion it would be D^1's turn to go out; if, indeed, before then the organization had not collapsed through the extinction of divisions and want of men to reform them."*

In a subsequent passage Mr. M'Lennan explains the mode in which this system would work as a quasi-entail of the family lands. "The most simple way of regarding the rules established for the fourfold organization, in order to see how they operated as a succession law, is to conceive it to be started by four brothers, A^1, A^2, &c., on the death of their father, leaving to them ancestral lands, which had come to him as next-of-kin, and which, at common law, they were entitled to divide equally between them. Thus regarded, the arrangement operated, in the first instance, as a settlement of the respective shares of the brothers on their heirs of line, the survivors, or survivor of them, as far as great grandsons. When a son B appeared, A shared the division lands

* Primitive Marriage, 2nd edition, page 472.

with him; when a grandson appeared, they were shared again between the father, son, and grandson; and they were finally redistributed on the appearance of a great grandson. After this there were redivisions as the men in turn died, till, they all being dead, the land was shared in the proportions specified between the remaining divisions. The chief peculiarities of the system, it will be seen, are (1) that it stopped succession in the direct line, except in the geilfine division at great grandsons; (2) that the principle of primogeniture appears in the formation of the groups of co-inheritors and parceners; and (3) that a life-tenancy only was given to any heir. To comprehend the working of the system, we must think of the four brothers as having one or more brothers who shared with them the lands on the death of their father, but remained outside the organization. These, I conceive, were the men of the family with their descendants, or whose descendants, if they were dead, might, on the extinction of one or more divisions, enter the organization by forming new divisions. If the indfine, for example, became extinct, the iarfine would become the indfine in the reformed organization, the deirbfine, the iarfine, the geilfine, dropping the odd man, would become the deirbfine, and the next eldest brother to A^4, with his descendants, would become the new geilfine division. The new divisions would enter with a share of the ancestral lands equal to that possessed by the others, except so far as the others had their shares increased by the distribution between them of the lands of the indfine. And thus the organization would continue, confining the lands to great grandsons, till it collapsed through the extinction of two of the lines and the failure of men of the family to reform it. The succession law acting no longer, the lands of the extinct groups would then go to the next-of-kin, and be subject to the common law of succession, whatever that was, till the lands were again resettled by the formation of a divisional organization."*

It is to be observed that Mr. M'Lennan clearly distin-

* Primitive Marriage, 2nd edition, page 496. It is to be observed that the technical terms used are those of Scotch, not of English, law.

guishes between the actual existing form of any legal organization, and the legal theory by which such form is determined. He does not assert that the Irish '*fine*,' as a rule, was organized as a complete geilfine system, but proposes his theory as the abstract system of the Brehon lawyers, upon which, under certain circumstances, the '*fine*' would be organized so far as it went, and which it should assume if fully developed. The English lawyer knows that the abstract and complete form of the English manor is as purely ideal as any Platonic archetype, but that the existing manors do, as far as circumstances admit, present more or less resemblance, and approach more or less nearly, to the theoretical manor described in our Real Property text books. Mr. M'Lennan's scheme however involves difficulties which he has wholly failed to explain. Why should the ordinary rules for the succession to land be suddenly arrested upon the birth of a fourth son, and the shares of the several sons thereupon pass in strict entail for three generations according to the law of primogeniture? Why should the succession in the case of the geilfine division be extended to one generation further than in the case of the other classes? and why should the head of the indfine division remain in the system, although he had himself a descendant in the fourth degree, but "go out" upon the birth of a descendant of his youngest brother in the same degree? Mr. M'Lennan assumes the four members of each class to have held the original share of the first member of that division, as joint tenants; and if so the following questions must at once arise. If A^1 goes out and A^2 must thereupon cease to be head of the iarfine division and succeed A^1 as head of the indfine, and A^3 pass similarly from the deibhfine to the iarfine, and A^4 from the geilfine to derbhfine, does A^2 cease to be a joint tenant of his own original share with B^2, C^2, and D^2, and become a joint tenant of the original share of A^1 jointly with B^1, C^1, and D^1, and is this process repeated in the other classes, so as to leave the four junior members of the geilfine class sole tenants of the original share of A^4? and further if, upon the entire extinction of the indfine class, the geilfine class become in the

"formation of new divisions" the derbhfine class, how is the fifth man of the geilfine class got rid of? Mr. M'Lennan simply says that in this case the geilfine division drops the fifth man, but we must confess that such exclusion appears to us as inexplicable as his original inclusion.

In dealing with a question such as the present, there is nothing more misleading than analogies and assumed resemblances. Each of the three above-mentioned authors, who have treated of this subject, has supported his theory by reference to rules existing in other archæic systems of law, which are more or less confidently stated as arguments for the acceptance of the proposed theory as correct. But a profitable comparison can only be instituted between two known objects. An attempt to define the qualities of any thing unknown by reference to the qualities of a known quantity rests upon antecedent proof (more frequently the suppressed assumption) of their identity. This argument from tacitly assumed resemblances has been often in the present day too far pressed, frequently with very unfortunate results; in dealing with an inquiry like the present, it would seem to us that the first step is to discover, as far as possible, what the actual texts with which we are dealing say upon the subject, and to draw our conclusions from them free, as far as may be, from those *a priori* ideas of law, which, as incident to the form of society in which we live, naturally influence our judgment; and that when we have arrived at some definite conclusions in this manner, then, but not until then, the analogies and resemblances of other system are useful for the purpose of testing the probability of the correctness of the results to which we have attained, and as explaining or illustrating many points of detail which at first failed to attract the attention which they deserved.

When an attempt is made to deduce, from the existing remnants of the works of the Brehon lawyers, a consistent theory of the organization of the ancient tribe and family, there arises the obvious difficulty, that the documents, with which we have to deal, are not the contemporaneous exposi-

tion of an existing system, and that we have no means of arranging them according to the date of their production; even the original text and commentary of many of them are separated by long intervals of time, and exhibit ideas altogether discordant. The earliest date of the original text, or rather of the customary rules laid down in the original text, is not, and probably cannot be, ascertained; the latest commentaries and glosses are probably not earlier than the 16th century; they certainly cover a period extending from the Danish invasion to the reign of Elizabeth, during which the country was exposed to continued war and confusion, and subjected to all the political and social causes which would naturally lead to the breaking up of the ancient tribe and family system, and the substitution of the arbitrary power of chiefs commanding bands of armed retainers for the regular action of ancient and established custom. The analogy of other nations in a similar condition would naturally lead us to anticipate that during this period the chiefs were constantly gaining ground as against the rights of the individual members of the tribe, and such would appear to have been the case from the days of Conn Cetcorach to that of the chiefs, who, in the 16th century, obtained from the English Government grants of the tribe lands in fee or fee-tail with the object of defeating the custom of Tanistry, or of destroying the rights of the customary holders. The original constitution of the tribe or family during such a period gradually ceases to be an existing *social fact*, and tends to become merely a rule for the distribution of property upon death, after a fashion which would be strange and inexplicable, if we did not understand it to represent a social system which had for all practical purposes disappeared. The distribution of property according to the Geilfine system, as expounded in the commentary to the Book of Aicill, bears the same relation to the original constitution of the '*fine*,' as the rules of the English law, relative to the succession of real estate, bear to the feudal system, or as the distribution of property according to the later Civil Law does to the early Roman family. Those of the Brehon Law tracts, which deal with the geilfine system as an arrangement of the tribe

or family, would seem therefore the more ancient and authoritative with regard to the nature of that organization; and it is worthy of remark that the differences, which exist between what may be *a priori* assumed to be the earlier and later tracts, are just what might be anticipated to have arisen under these circumstances.

The most important document upon the subject of the tribe and family organization is the tract entitled "Of the Divisions of the Tribe of a Territory" published in this volume, and we desire particular attention both to the text of this tract, and the obvious deductions to be drawn therefrom.

The word translated tribe in the title of this tract is "cinel," which is generally understood to mean a tribe in the full extension of the term, and containing a greater or less number of "families."

The word translated "territory" means not a mere extent of land, but primarily the tribe or people themselves, and thence a tract inhabited by a definite body, and regarded with reference to the rights of the occupants.

The word "*fine*," translated variously "tribe" or "family," (a circumstance which has been noticed as an error by some critics of the present translation of the Brehon Laws,) appears on the face of this document as not having any very precise or technical meaning, implying any number of persons conceived as forming a class whether from identity of descent, or similarity of rights.

This document must not be considered as a description of the ordinarily existing tribe, but rather as an explanation of the form which a tribe would assume if fully developed in every direction. It is remarkable that this tract would appear to consider the tribe and family as commensurate, if not identical. It would be, however, an error to consider that we must, from the tract in question, infer such to be the case, a result contradictory of many other passages in the Brehon Law tracts and opposed to all analogy.* The number of families in the Celtic tribe was never theo-

* The following passage is conclusive upon this point: "An '*aire-fine*' be it known; a man who leads his family ('*fine*') when they are on their way to the chief ('*flaith*')."—Post, p. 349.

retically fixed, as were the number of the Roman gentes or Greek φράτιαι; and our author naturally deals with the simplest case of the tribe consisting of one family, or, which is perhaps more probable, when he deals with the family, he directs his attention to some one supposed instance.

The mode in which the tribe or family was organized according to this tract, was as follows :—

(A.) The "*fine*" of the chief (flaithe-fine), consisting of—(1) the chief's *fuidhir* tenants; (2) the kinsmen of the chief; (3) the dependents of the chief.

(B.) The divisions of the "*fine*" of the territory—(1) the geilfine; (2) the deirbhfine; (3) the iarfine; (4) the innfine; (5) the deirghfine; (6) the duibhfine; (7) the finetacuir; (8) the glasfine; and (9) the ingen ar meraibh. The nature of the five latter divisions, as to which there is no doubt, is of much importance in determining that of the four first in the second part of this catalogue. The "deirg-fine" are described as those who have shed blood; from whom no *debadh* property comes; who receive no share of the tribe ("*fine*"), but who nevertheless pay for the crimes of their kinsfolk. Dr. W. K. Sullivan describes this class as consisting of those "who killed, or attempted to kill the senior members of their fine in order to get at their *dibad*, or property;"* in this he follows Dr. O'Donovan, who states, in the note annexed to the text, that they were those who were guilty of the murder of a brother familyman, *i.e.*, one of the seventeen men of the four principal divisions. A permanent division of murderers is indeed an anomaly in a tribe organization, and there is a much simpler and more obvious explanation; in the present volume there is contained a tract entitled "The Land is forfeited for Crime," in which it is laid down that the land of one who had committed a crime was "given for his crime;" that his land was the primary fund for the payment of the "dire"-fine and compensation in exoneration of those who by reason of their kinship, or family relation, to the criminal, were bound to make good his default. The deirgfine-man was one who by reason of

* Manners and Customs, &c., Vol. I., p. clxvi.

a crime had forfeited his share in the property of the "*fine*," but in other respects continued to be recognised as a member.

The "dubhfine" were those whose claims to be members of the "*fine*" were under dispute, and who were required to substantiate their rights by ordeal, or by lot.

The "fine-tacuir" were not members by descent, but by a contract of adoption.

The "glasfine" were the children of a female member by a stranger, defined as the children of an Albanach, and described as kindred from beyond the sea.

The "ingen ar meraib" were those commonly believed to have claims to be members, but whose title rested merely on common repute, and was not the subject of ordeal or lot. This term "ingen ar meraibh," literally "the nail on the finger," may be similiar to the word "nagel kyn" as designating indefinite and indescribable relationship. It is to be observed that these five latter classes consist of men not full members of the "*fine*." The "deirghfine," although members by descent, had suffered a "*diminutio capitis*," and were not in the enjoyment of full rights. Of the remaining four classes two were confessedly not members at all, and the membership of the two remaining classes was either in supense or unprovable. The four classes of the geilfine, &c., must therefore represent the members of the "*fine*" of admitted descent, and full rights. These classes are in this tract described as follows:

"The geilfine extends to five persons; it is they that get the '*debadh*'-property of every kindred chief (*cond*) who leaves '*dibadh*'-property.

"The 'deirfine' extend to nine persons; their 'dibadh'-property is not divided according to the number of kindred heads.

"The 'iarfine' extend to thirteen men; they get only the fourth part of the fines, or of profits, of the ground, or of labour.

"The 'innfine' extend to seventeen men; they divide among themselves, as is right, whatever part of the tribe-land is left as 'debadh'-land."

From this tract the following deductions may be safely made: (1) the organization of the "*fine*" was based upon the exclusive possession of land by the "*fine*" as a distinct community, and had direct reference to the mode in which the land was divided among them.

(2) The four classes of the geilfine, deirbhfine, iarfine, and 'innfine' consisted of seventeen members of the "*fine*" of pure descent, and full rights.

(3) Each of these four classes was complete in itself and possessed distinct joint rights both as against the other three classes as well as against the general members of the "*fine*."

(4) The four classes of full members do not comprise all the members of the fine. The "dubhfine" man, who had succeeded in establishing his position in the "*fine*" by ordeal or lot did not enter into the "geilfine" classification, but received a share of a fixed amount.

With reference to the "deirbhfine" division there is stated a rule that their property was not divided according to the number of kindred heads; it is possible that this may be introduced to point out that as between the "geilfine" and "deirbhfine" divisions, the two classes were to be considered as different and equal stocks, and the "geilfine" had no advantage in the division of property by reason of the greater number of its members; it would seem more probable that this is a general rule to the effect that property which passed to the "deirbhfine" class was to be divided "*per stirpes*" and not "*per capita.*" This fact is put beyond doubt by the passage in page 259 describing the mode of the division of the "*dire*"-fine payable to the family (and "*fine*") of a slain man: "Three *cumhals* of "*dire*"-fine go to the son and to the father; there are three *cumhals* of "*dire*"-fine remaining after that; a *cumhal* of "*dire*"-fine of them goes to a brother collaterally.—There is one '*cumhal*' of '*dire*' fine then after that—that is to be divided from the lowest man of the 'geilfine' division until it reaches the uppermost man; and from the uppermost man until it reaches the lowest, &c."

A man therefore could stand in some relation to a

"geilfine" class, which did not include either his existing father, son, or brother, and from which we must assume that he himself also was excluded. The same conclusion must be drawn from the liability to pay fines. Upon this point Mr. M'Lennan remarks : "That the divisional organization was one of the divisions of the '*fine*,' or sept, appears from a curious passage in the Book of Aicill (Vol. III., p. 481) which discusses the question from whom a forced exaction, as in payment of a penalty or fine, might lawfully be levied. Here the 'seventeen men' are several times referred to as specially liable to such an exaction if levied on account of the crime of any man *connected* with them, in terms which seem to imply that every tribesman had, necessarily, a connexion with a divisional organization which was liable for his defaults. In one place the text, which, as it stands, reads as nonsense, must have been intended to indicate that the distant relatives of the criminal were liable for him only when the divisional organization was incomplete, or had collapsed—a reading which is confirmed by the text. The four nearest tribes bear the crime of each kinsman of their stock, geilfine, &c. (Senchus Mor, Vol. I., p. 261.) Here the connexion is disclosed between a tribesman, himself not the member of a divisional organization, and the organization responsible for him."*

The seventeen men must have exercised an authority and rule over the other freemen, of the "*fine*," or must have filled some quasi representative position in relation to their fellows. If the former were the fact it is improbable that so remarkable a difference of status would have been passed over by the author of this tract.

(5) The seventeen men are not represented as occupying among them the entire territory of the "fine," for there was a surplus of land available for members of the "*dubhfine*" or of the "*glasfine*."

(6) The existence of the organization of the "*fine*," does not seem to have been limited by reference to the life or lives of any person, or class of persons; the existence

*Primitive Marriage, 2nd ed., p. 480.

of such classes as the "*dubhfine*" and the "*ingen ar meraibh*," the members of whom were contemplated as possibly increasing in number with the rest of the "*fine*,"* prove that "*fine*" so constituted had continued for very long periods.† But upon the completion of the four classes to their full number an important change took place as to the rights of the members of the "*fine*" in respect of their common property. The words in this tract "From this forth it is a case of a community of people, it is then family relations cease," are glossed as meaning that upon this contingency the subdivisions of land and liability separate, or that the relationship becomes extinct, or that the four families become extinct. The meaning of the glossist is quite clear, not that the previous members of the "*fine*" cease to exist as individuals, but that the organization of the "*fine*" as far as relates to the mode in which the common property is held ceases to exist and the community is dissolved into a number of persons holding the land they occupied independently of each other and without rights of inheritance to the lands of each other. That this is the correct interpretation appears from the passage in the first tract in this volume, "From seventeen men out they are not a tribe-community‡ and the commentary upon that passage. (7) The special *geilfine* class possessed a certain superiority over the other three, and by some such title had an exclusive right to extern property falling in, and as a natural consequence according to the first principles of Brehon law was also subject to a primary liability for the crimes of the members of the "*fine*."

These results may be supplemented by some other conclusions gathered from the tracts contained in the present and preceding volume.

There was at the head of the "*fine*" a chief who represented the "*fine*" in its collective capacity.

In the Book of Aicill, in discussing the right to property found upon roads, and the remedy for injuries done to roads, a distinction is drawn between the king of the territory, and the geilfine chief, in this passage distinctly described as

* Page 295. † Vol. IV., p. 243. ‡ Page 39.

the "geilfine flaith"; and the latter is treated as representing the rights of the "*fine*" as the former those of the entire community.* The "geilfine" chief of this passage would appear to be the same as the "fair chief of the tribe" whose assent was requisite to the validity of contracts dealing with "coibne-property";† and also with the "head of the tribe" who had certain rights in the nuptial presents of women of the tribe, and the gains of an harlot a member of the tribe.‡ The "geilfine" chief was not always, it appears, necessarily a member of the "geilfine" class, for in the second of the passages referred to, there occurs a curious proviso restrictive of the power of the "fair-chief of the tribe," viz., "unless he be the sixth" which, although explained in the gloss in an obscure manner, appears to mean unless he be *not* one of the first five, *i.e.*, of the geilfine division properly so called.§ There appear allusions to chiefs of the deirbhfine, iarfine, and indfine divisions, which implies that some one of the class possessed a seniority, or superiority, over the other members of the class.‖ It would also appear that when a class was once formed, it continued to subsist as long as any one member of the class continued in existence; as we should now express it, the members of a class were as among themselves joint tenants and not tenants in common. The movement of individual members through the different classes was not caused by the vacancies in the three latter classes but by a superfluity of members in the first class; and that the social position and rights of the classes among themselves was in the inverse order of the seniority. That there were some connexion of kinship between the members of the four classes is everywhere assumed, but the relationship which may have existed at any time between the members may not have been that upon which the system was originally constituted. The existence of a father and four sons is more than once referred to as the basis of an

* Vol. III., p. 307. † Vol. IV., p 39. ‡ Id., p. 63.

§ Another and slightly different explanation of this passage is suggested subsequently, see p. lxxxviii.

‖ Vol. IV., p. 243.

ordinary "geilfine" system, but it does not follow that although the existence of a father and four sons would result in founding the system, it could not be formed by five persons of the same stock, standing in another relationship to each other; it might, it appears, be formed upon the basis of five co-existing brothers. That the deirbhfine were not descended from the geilfine is shown by the passage, which describes the property of the geilfine division upon the death of the five members of that division passing to a branch extern to the '*geilfine*,' viz., the *deirbhfine* division.* In the glosses upon this passage there is the following: "In this case after the death of the five persons which are the *geilfine* division, the land is divided among the three '*fine*' divisions, and in this case there is no female heir." As a female is here assumed to have been entitled to succeed upon the failure of male heirs, the extinction of one of the classes implies both the death of the original members, and the failure of their issue, and it is therefore necessary in any theory of the system to find room for the succession of lineal descendants to the land of their ancestors.

Mr. M'Lennan after pointing out that such a system must be primarily founded upon the possession and distribution of land, and that the liability of the members for the acts of members of the "*fine*" is based upon the rights which they enjoy in respect of the common property, makes the following important observation: "It is not difficult to imagine that arrangements of such obvious convenience as defining and limiting the liabilities of kinsmen for one another, if once successfully established among the superior classes, would in time be imitated by the inferior; and the peculiar settlement of property, worked through a divisional organization, as may be easily seen, is nowise in its nature, inapplicable to movable estate."†

In conformity with this observation of Mr. M'Lennan, a remarkable analogy to the geilfine system in the "*fine*" appears to have existed among the families of the "fuidhir" tenants, which is worthy of much attention in the consider-

* Vol. IV., p. 39. † Primitive Marriage, 2nd ed., p. 492.

ation of the present subject. These tenants, settled upon the chief's share of the tribe lands, were recruited from the broken men, who had lost land and kinship, and in the tribe organization were supposed to form portion of the "*fine*" of the chief *(flaithfine)*, but at an early period they seemed to have formed artificial families upon the system of reciprocal liability, and to have acquired a right of hereditary transmission of property. The passage to which we refer lays down as a general principle that "the natural bondman does not bear the crimes of his relatives," but that if there were five houses of "fuidhir" tenants, each householder having a stock of one hundred cattle, and all under one chief, they formed an association, recognised as a portion of the tribe, for each thereupon shared in the common tribe land (dibadh) and paid for the crimes of the other member of their separate organization. The phrase "They share the tribe property," translated as in the last sentence by an earlier glossist, is translated by a subsequent commentator, "Each of them shall share the tribe property of each other;" according to this view the reciprocal liability for crimes drew with it common rights and joint ownerships in the aggregate stock of the five houses.* But whatever rights the five head men of these "fuidhir" houses acquired in the common stock, it must have been subject to the succession of lineal heirs, as in a subsequent passage we read (in respect of the case of fuidhir tenants), "the father does not sell anything to the prejudice of his sons, grandsons, great grandsons, or great great grandsons."† To constitute such a community there must have been a certain number of persons belonging to different households, and also possessing an adequate amount of property. The sons, brothers, &c., of an household were liable for each others deeds without such organization, and the addition of impecunious persons into such an association would create a liability without any reciprocal guarantee.

* Post. page 43. The precise meaning is not important, but we are inclined to prefer the latter translation.

† Post, p. 287.

There must have existed distinct and early laws of hereditary succession to lands of inheritance (*orba*) among the Irish Celtic tribes, but these rules have in fact been amalgamated in the "*geilfine*" system, and cannot be now understood apart from it; the Welsh rules which may be assumed to have some general resemblance to those of the Irish, throw, in our opinion, considerable light upon this subject. The relation of the father and son in the Welsh law in respect of the family inheritance resembled rather the civil law substitution, than the English joint-tenancy; "neither is the son to deprive his father, during his life, of land and soil; in like manner the father is not to deprive the son of land."* Such a rule, if strictly carried out, would have created a perpetual succession, and the right of the heir could be barred only in one way, viz., by an agreement between "father, brothers, cousins, second cousins, and the lord;" a proceeding the same as the present mode of barring a Scotch tailzie. Upon the death of the father, the daughters took nothing, unless there was a failure of male heirs; upon the death of the father the sons divided the lands between them in the following manner: "When brothers share the patrimony between them, the youngest is to have the principal tyddyn, and all the buildings of his father, and eight erws of land, his boiler, his fuel hatchet, and his coulter; because a father cannot give these three to any but to the youngest son; and though they should be pledged, they never become forfeited. Then let every brother take an homestead with eight erws of land; and the youngest son is to share, and they are to choose in succession from the eldest to the youngest."†

The inheritance having been thus divided among the first generation of descendants, was again divided among the grandsons, and again among the great grandsons, after which there was no further apportionment. By this we must understand that the three first generations of descendants took "per capita," and that the fourth generation retained

* Ancient Laws of Wales, Vol. I., p. 177.
† Ancient Laws of Wales, Vol. I., p. 543.

the existing shares by household or per stirpes. The resharing was subject to the exception that no one should "remove from his tyddyn to another; because the tyddyns are of such a number that no one is obliged to be a builder for another".* The right to inherit the share of any deceased relative, was not as collateral heir of the deceased, but as a lineal descendant of the original ancester;† to use the terms of English law, heirship was claimed not to the last seized, but to the purchaser; but the right of inheritance stopped short at the fourth generation of descendants; the descendant in the fifth degree had no hereditary claim through his ancestor to any portion of the lands of inheritance, and therefore kinsmen more distantly related than third cousins could not be heirs to each other in respect of shares in lands of inheritance. In default of relations within this degree the land escheated to the king.‡ It is to be remarked that according to this system the elder brothers go out of the father's house and establish themselves in separate buildings, upon distinct portions, cut out for them of the lands; and the youngest son is left in the possession of the original homestead and all its gear. The redivisions are not partitions of the land exhausting the entire, but on these occasions each male descendant acquires a fixed portion as his share; after the third generation there is no further redistribution of the land; and after the fourth generation the family organization is dissolved into separate households, each of which (for the purpose of inheritance) had no relationship with the others.§

* Ancient Laws of Wales, Vol. II., p. 291. † Id. ‡ Id., Vol. I., p. 545.

§ That the hereditary right of succession to property and the claims of kinship should cease, or be very much diminished at some particular point in the chain of descent, is a conception not unknown to ancient law. "The typical example of this division of the clan, as of so many other of our early institutions, is found in India. In that country the degress of kindred, as I have already observed, were determined by the nature of the sacred rights in which the kinsmen shared. The nearer relatives offered to their deceased ancestors the *pinda* or sacrificial cake. The more distant relatives made an offering of water. The former were called Sapindas, or persons connected with the cake. The latter were called Samanodocas, or persons connected by equal oblations of water. The relation of the Sapindas ceases with the seventh person, that is, with the sixth degree of kindred." (The

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In the following observations it is desirable to use the term "tribe" and "family" in a techincal sense, treating the former as indicating the larger organization known as the "*cinel*," the latter as equivalent to the "*fine*;" this distinction between the "tribe" and the "family" appears in all

degrees of kindred in this passage are calculated according to the rules of the English, not of the Civil Law.) "The relation of the Samanodocas ceases only when their birth and family name are no longer known. The Sapindas have the primary right of inheritance to a deceased person; and failing the Sapindas the Samanodocas succeed. In other words all those persons are Sapindas, who have a common great-grandfather, or other nearer ascendant, that is second cousins and all nearer relatives. All those persons are Samanodocas, who have a common great-great-grandfather, or other more remote ascendant, that is third cousins and all more distant relatives. In the former case, the common ancestor who marks the limit, is the father's grandfather. In the latter case it is the grandfather's grandfather. Thus the Prince of Wales and the Ex-Crown Prince of Hanover are Sapindas, because they trace descent from the same great-grandfather, King George III., but their children fall into the wider circle of Samanodocas, or more remote kinsmen.—*The Aryan Household*, p. 168.

The actual text of the Welsh Law is as follows:—

1. When sons share their patrimony between them, the youngest is to have the principal tyddyn, and all the buildings of his father, and eight erws of land, his boiler, his fuel hatchet, and his coulter; because a father cannot give these three to anyone but to the younger son; and though they should be pledged, they never become forfeited. Then let every brother take a homestead with eight erws of land, and the youngest son is to share; and they are to choose in succession, from the eldest to the youngest.

2. Three times shall the same patrimony be shared between three grades of a kindred; first between brothers, the second time between cousins, the third time between second cousins; after that there is no propriate share of the land.

3. No person is to demand re-sharing, but one who has not obtained a share by choosing; thence the proverb, there is no choice in what is settled.

4. No person is to obtain the land of a co-heir, as of a brother, or of a cousin, or of a second cousin, by claiming it as heir of the one co-heir who shall have died without leaving an heir of his body; but by claiming it as heir to one of his own parents, who had been owner of that land until his death without heir, whether a father, grandfather, or great-grandfather, that land he is to have, if he be the nearest next-of-kin to the deceased.

5. After brothers shall have shared their patrimony between them, if one of them die without leaving an heir of his body, or co-heir, to a third cousin, the king is to be the heir to that land.

6. As a brother is rightful heir to his patrimony, so is his sister rightful heir to her gwaddol, through which she may obtain a husband entitled to land; that is to say, from her father, or from her co-inheritors, if she remain under the guidance of her parents and co-inheritors.

7. If an owner of land have no other heir than a daughter, the daughter is to

early systems, and correlative terms expressing them are found in many languages.*

The "family" came into being under certain circumstances, and again was dissolved upon the existence of a certain state of facts; the "tribe" existed before the "family" came into being and continued to exist after the latter had been dissolved; the "tribe" consisted of an aggregate of individuals connected by a real or assumed relationship, and occupying in separate households a district of which they in some manner were the common owners.

Let us consider the circumstances under which a "family" organized upon the *geilfine* system came into existence; the mere fact that a member of the tribe had a certain number of children would be insufficient, for it rested upon the basis of the possession of a distinct and separate property; nor again would the bare fact of the possession of land enable a member even of the "family" to found a new geilfine group, for there was only one such organization in each family.

The property upon which a family was formed was not a right to a share greater or less in the general tribe land to be allotted from time to time, or a right to depasture the waste of the tribe, but the exclusive possession of a definite portion of the tribe land, granted out the general mass, and appropriated as the exclusive and hereditary property of the descendants of some definite individual, an estate corresponding to the A.S. bocland, and described in the Brehon Law as "orba."

be heiress to the whole land.—*The Dimetian Code*, ch. xxiii., A. L. & I., vol. i., p. 543.

"Distribution is in the first place to be between brothers. The youngest is to choose his tyddyn with such houses as may be upon the eight erws, if he be an uchelior, and from oldest to oldest let them choose their tyddyn, and to every one what houses may be upon his tyddyn. And after that let the youngest son share in every case; and from eldest to eldest let them choose. Afterwards cousins are entitled to a re-sharing, but no one shall remove from his tyddyn for another, because the tyddyns are of such number that no one is obliged to be a builder for another. And in that manner are second cousins to re-share. And, after the third sharing, let everyone re-claim his share in his possession lawfully through guardians of land-borderers.—*Cyoreithian Cymru*, xxxi., 1, A. L. &. I. of Wales, vol. ii., p. 291.

* The Aryan Household, 161–171.

If land has thus been dedicated to the use of a separate family, the claims of its members to enjoy their several proportions by hereditary right must be traced from the original acquirer, or in the old English law term "from the conqueror." This is very clearly shown by the Welsh rule that heirship is traced back in the first instance to the ancestor, and not to the deceased. As the family increased, the additional further accommodation is provided for, not by the enlargement of the original dwelling, but by the erection of new buildings with several allotments. The brothers under the Welsh law did not upon the father's death take equal undivided or divided shares, but to each was alloted his homestead with his eight erws of land in severalty. The existence of the thickly scattered "raths" in Ireland would of itself prove that the "family" occupied its district in this manner, and in the tract of the "Crith Gabhlach" (also published in this volume) the several members of the tribe are assumed to occupy separate houses, classified as to size, &c., in accordance with the rank of the occupiers; the Celtic family never seems to have clung together in the peculiar form of the Sclavonic household.

In considering how a *geilfine* system might have been formed, the question why the number of seventeen formed an element in the organization may be postponed for subsequent consideration. Nothing can be more embarrassing than an attempt to reconstruct a system founded both upon hereditary descent, and certain assumed arithmetical proportions. A family arranged upon some rules of inheritance can be easily understood, if once the principle of hereditary succession which underlies it, be ascertained; a political institution resting upon the selection of a fixed number from the indefinite mass of the population, can be supposed to have been an actually working institution. But when we read of assemblies formed of members selected in certain proportions, or in fixed numbers, out of different stocks, or of property divided among the descendants of some ancestor, in a fixed number of shares, it is clear that we are no longer

* Ancient Laws of Wales, Vol. I., p. 177.

dealing with actual facts, but with theoretical descriptions of what the institution was supposed in the abstract to have been. The numbers in each family must be uncertain; some men have many, some few or no descendants. The actual condition of the population must soon have rendered its arithmetical classification impossible, if such classification ever existed in fact. No one pretends to believe in the actual existence of the early Roman constitution, with a permanently fixed number of tribes, curiæ, gentes, and familiæ; and yet upon the assumption of the existence of an almost impossible state of facts rest the number of the members of the senate, and the organization of the legion. Institutions, as all else, must accommodate themselves to existing facts, and in such cases as those to which we have referred the principle of hereditary right must shake off the incumbrance of arithmetical arrangement, or the numerical arrangement be carried out in disregard of the strict rules of descent.

The original acquirer of "orba" land establishes upon it his household, and as the number of his sons increases beyond the capacity of one common dwelling, they successively go out, take separate allotments, and establish themselves in distinct homesteads. This scattering of the original household must have arisen as a matter of necessity, as the consequence of an increase in number beyond the accommodation of the paternal dwelling. The eldest would probably first marry and leave the original home, and the order of their departure would probably follow that of their seniority. That the sons took their separate allotments during the life of the parent, and not upon his death, is the only mode of explaining the Welsh rule that the youngest and not the eldest son, succeeded to the father's house and gear; this must have rested upon the assumption that the youngest son alone remained in his father's house, which he jointly occupied with the father, upon whose death he remained in sole possession by survivorship, rather than succeeded by inheritance. Each son as he successively left his father's house received his share in the lands of inheritance, and, having become the head of a distinct household, would

cease to be a joint owner with his father in the original property; the portion acquired by an elder son who had thus gone out would pass to his descendants, according to the ordinary rules of descent, but the undisposed of residue of the original lands would survive to the youngest son, who had not gone out, as representing his father in the manner before mentioned.

The "geilfine" system began to exist when there was a father and four sons; but the question arises as to the particular date at which this happened. That such date was that of the birth of the fourth son is in every way improbable; the members of the system are always spoken of as "the seventeen *men*," who have definite rights and considerable liabilities, which could neither be enjoyed nor performed by infant children residing in their father's house. The members of the geilfine stood in definite relation to each other; they had certain rights in each others property, but what was more important, they were jointly liable for the wrongs committed by any of the "family," and were guarantors among themselves for the payments to be made in respect of any such. That a man's four infant sons, who resided in his house, and possessed no independent property, were joined with him as security for his debts, would be of no advantage to extern creditors, and the father could not expect any benefit from having joined with himself as co-securities, his sons, who had no property except a contingent interest in what he himself possessed. The nature of the relation between the members of a "geilfine" system implies that they all are *sui juris*, and all owners of property efficient to answer their joint and reciprocal obligations. It is at this point that the great importance of the mode in which the "findhir" tenants are organised into a fictitious family is apparent. This was, as stated in the passage before referred to, effected by combining into one, five distinct households, not individuals, each possessing a fixed minimum of property. The unit here, as is generally the case in early tribal systems, is not the individual, but the household; when an individual is spoken of, he is referred

to in his character of the head of an household; his property is originally the property of the household, of which he is the manager rather than the absolute owner. It is remarkable that the hereditary rights of succession of "findhir" tenants is apparently connected with the fact of their being organised; this would be a natural consequence of such an arrangement, for the property of any "findhir" house having been caught by the system of mutual guarantee, the household would be continued for the purpose of the fulfilment of the guarantee, in the persons of the sons of the original head as a member of the artificial family. For these reasons there are considerable grounds for assuming that the four sons, who jointly with their father formed a "geilfine," are four sons who have gone out and established themselves in independent homesteads upon their allotments.

Disregarding again for the present the question of numbers, the father and his sons, who have left the original home, and established themselves as the heads of independent houses, form the nucleus of the "geilfine" arrangement of the family; we have now an organization of households and a community, or land held by a community (coibne), instead of land held by an individual as head of an house; and in place of being "the paterfamilias" the father becomes the "geilfine" chief, or the head (*ceud*) of the community. The number of households in the community is fixed by the number of new homesteads established by the sons who have gone out, that is, a number equal to the sum total of the father and his forisfamiliated sons; and if the union be an union not of individuals, but of householders representing their separate homesteads, the system will not be broken up by the death of any leaving issue, but his successor in the headship of his house will take his place in the geilfine system.

The youngest son, succeeding his father as head of the original household, would at an early period probably succeed to the headship of the family also. The ancient religion of the Irish Celts has absolutely disappeared, but if their religious ideas resembled those of many others of the

early Aryan tribes, among whom the headship of the family is intimately connected with the performance of the sacred rites at the original hearth, it would not appear unnatural that the headship should remain with the son, who, although the youngest, occupied the original home of the family.

The geilfine system having been once originated, it is to be considered whether the sons of the original acquirer represent the branch of system technically known as the "geilfine" branch, or represent the first members of the four distinct branches, as is the opinion of Mr. M'Lennan. To the latter opinion there appear to be insuperable objections. It excludes the ancestor from the system altogether; it confines the number of households in the family to four; it certainly fails satisfactorily to account for the extra member of the geilfine branch; it introduces the wholly foreign theory of primogeniture; and it involves the fatal difficulty that a large proportion of the members must be infants; as to the extraordinary longevity and power of reproduction he attributes to its members, we take no objection, as its author throughout treats the geilfine system, not as an existing social organization, but a speculative theory of descent.

That the geilfine class was formed before the deirbfine began to come into being, must be, in our opinion, the conclusion to be arrived at, upon an examination of the texts, and is the only theory upon which the peculiar intimate union between the members of each class among themselves, and the gradations of rank and probable difference of wealth among the classes can be accounted for.

The creation of the deirbfine class is similar to that of the geilfine, and would appear to have arisen in the same manner. If the sons, who leave the original home, take fixed allotments to which their descendants will be confined, and the original home and the balance of the lands of inheritance remain with the youngest son, and are available for the establishment of his descendants, it must follow that until the lands are completely occupied, the elder stocks must be constantly losing ground in point of

wealth as compared with the younger. If a son of the youngest son can, on leaving the original home, receive an allotment similar to that which his father's elder brother received, his position is much better than that of his first cousins, and with each successive generation the disparity would become more marked. The answer to this objection is, that the existence of this very disparity, is one of the most peculiar, and, at first, unaccountable facts of the geilfine system, according to which the members of the geilfine class are, by the introduction of new members, promoted, or degraded (it is immaterial which term is used) into and through the three other classes, with a loss upon the occasion of each removal of position and property, but with a co-relative diminution of liability.

That the four branches of the geilfine system represent four distinct generations of the descendants of the original acquirer must be admitted; the terms descriptive of the four classes are repeatedly used as expressing the four successive generations descending from a supposed ancestor; but it appears equally certain that none of the classes were the descendants of any other of them. The glosses, indeed, treat the geilfine branch as being sons, the deirbfine branch as being grandsons, &c.; but if the views of the commentator in the Book of Aicill are not to be actually discarded, the "indfine" class contained the senior members of the system, and the geilfine the youngest; and hence the anomaly that the word which signifies the junior members of the class, are supposed to indicate the sons, and that which signifies the senior members of the class the great great-grandsons of the same person. So far, however, from treating the "*deirbfine*" as representing the "*geilfine*" class, the former is spoken of as a foreign branch taking only upon the failure of the issue of the geilfine.

The youngest son of the original acquirer, having succeeded his father, marries in his turn, and his sons, beginning with the eldest, go out successively and settle on their allotments. The second head with his four forisfamiliated sons forms a new geilfine branch, and that formed by the

four sons of the original acquirer is pushed down into the *deirbfine* class; the original house, being that out of which the successive generations have swarmed, always continuing as an household of the geilfine, and thus the existing chief with his forisfamiliated sons always forming the geilfine division; the claim of the several branches of the system to their respective allotments, supposing the generations to have died off evenly, and the whole number seventeen to have been filled up, would be as follows: the geilfine would be the sons of an existing head or chief; the deirbfine, the first cousins of the geilfine, would claim as the grandsons of the previous chief; the iarfine, second cousins of the geilfine, would claim as great-grandsons of the second last chief; the indfine, the third cousins of the geilfine, would claim as the great great-grandchildren of the original acquirer. The senior branch upon this supposition is that most removed from the chief for the time being, and for the reasons before stated also the least wealthy. The four divisions, representing four successive generations, would, if the analogy of the Welsh Law is of weight, complete the system; if the right of hereditary succession was not transmissible beyond the fourth generation of the descendants of the original acquirer, the sons of the fifth chief or head would have no right to allotments, and no further independent households could be formed.

If the respective classes represent in the manner above mentioned four successive generations of the descendants of the original acquirer, each generation represents either brothers or the descendants of brothers; and each class, taken by itself, formed a distinct subdivision of the family, the members of which were the nearest relations of each other.

If each class represents a generation, it, at first sight, is difficult of explanation how four successive generations remain of the same number, neither less, nor more, but this objection is removed if we admit that each class is in fact the offspring of a single individual.

We are strongly inclined to believe that in its inception

the respective classes were not tied down by any fixed rules as to numbers, although at the date of the commentary on the Book of Aicill the number of seventeen was considered as of the essence of the system. The geilfine organization is frequently spoken of as the "seventeen men," which would lead to the supposition that the number was always kept up by some contrivance to that amount; but from the rule that a class was not extinguished as long as there was one member of it in existence, it is clear that the system could, and must often, have been worked with very reduced numbers; a circumstance not incompatible with its successful operation, for the survivorship existing among the members of each class would concentrate the property of all in the hands of the last survivor, and leave the amount of property available for the fulfilment of their mutual guarantees unaltered.

The numerical form of early institutions arises from the desire of half-educated men for an unattainable arithmetical completeness in their arrangements, and from the wholly unwarranted assumption, with the view to enable them to construct theoretical systems, that all the families would be of some fixed amount, and that the members would be born or die off in the required order. The lawyers who reduced to writing the customs of the "*fine*," assumed that the number of children in each family would be five, that is, four who go out, and one who remains in the original home, and that, therefore, the system in its complete development must consist of seventeen persons, although probably as a fact it frequently fell short of that amount. The perfect form of seventeen persons, divisible in the four classes, each representing four brothers, with the addition of the head of the household occupying the original home, became the accepted theoretic form of the institution. If the number of seventeen members once became the supposed essence of the arrangement, that, which originally consisted of four classes, each of which was assumed to be four in number, and which, therefore, with the addition of original house, made up seventeen individuals, was con-

sidered as an organism of seventeen persons, sub-divided for occult reasons into four classes containing each a certain number.

In the "Bee Judgments" and "Rights of Water," allusions are made to the four geilfine classes, which manifestly prove that the four classes were regarded as distinct from, and contrasted with, each other. The geilfine system must have been familiar to the authors of these tracts, who illustrate local positions by reference to the relations between these classes. Nothing can more clearly show that each class was considered as a complete entity in itself.

Although the rule may have prevailed from an early date that the four geilfine classes should comprise no more than seventeen menbers, the number thus theoretically fixed could not often have come into conflict with facts; the chance of four successive householders in the lineal descent having each five sons, all of whom marry and have issue, is very remote, and may be practically dismissed from consideration.

We have already stated our explanation of there being four classes in geilfine system, and no more, viz., the rule that hereditary rights were not transmissible through more than four generations, and that therefore the organization could not be carried on beyond the great-great-grandsons of the original acquirer; other results worthy of consideration would arise upon this contingency, which are implied in the remarkable phrase; "From this forth it is a case of a community of people, it is then family relations cease." At first sight it would appear that the paragraph states that *the innfine class* divide among themselves the residue of the lands "of the family" as if it were "common tribe land," and that thereupon the organization of the "family," was dissolved. This would imply that the "innfine" class could at once on coming into being, dissolve the "family," a conclusion contrary to all the passages, which treat the "family" with its four classes as a continuing entity; it is quite impossible to imagine that the completion of the system involved its dissolution. It appears that no further

generation of sons issuing from the original dwelling could obtain allotments, because the fourth occupier of the house was the last who had a right to settle his sons on the "family" land; his younger son, the fifth occupier of the original holding, could put out his sons as they married, but was obliged to divide the original holding, which up to this would have remained entire, among all his sons. The peculiar privileges attached to this holding would be lost, and all the "households" placed on an equality; the house which up to this had been the chief's house would become one of the houses of the ultimate "geilfine" divisions, thus permanently raising the number of members of the class to five; the undisposed of residue of the land, so much as had not been allotted to the sixteen members of the four divisions, would be divisible among the households probably per stirpes. The land of the "family," which up to this had been regarded as the undivided property of the community (coibne land), is broken up among the various members in independent properties. This explains the expression relative to covenants dealing with *coibne* property, "which the fair chief of the tribe ("family') confirms *unless he be the sixth*;" for the sixth chief of the "family," however elected, would be the first who did not represent the rights of the original acquirer. We have no information how the "geilfine" chief was subsequently appointed; the note prefixed to the commencement of the Tract "On Succession" proves that the succession to the headship of the "family" was an open question, and that the lawyers were inclined to support the doctrine of seniority as against some previously established rule.

It is necessary to consider the rules of succession laid down in the commentary in the Book of Aicill, with the object of ascertaining how far they agree with the theory of the origin of the *geilfine* system which has been here suggested. The well known passage in the Book of Aicill appears to treat of the question how the property of a household should be divided among its members, and would therefore deal with a much later stage of the Brehon Law,

when the property of the originally united household was subject to distribution among its members. The principle that this property should be divided among seventeen persons at most, was then accepted, but the reason for such a number being fixed upon had at that time been forgotten, as there are no definite grounds shown for the distribution of the members into the four classes, and the essential and distinct unity of each class has been abandoned by the supposition that an individual of one class can be passed on into another class by the increasing number of junior members, and that, when the number of possible members exceeds seventeen, the senior member of the "innfine" class passes out of the organization.

It was, of course, impossible, when dealing with the mere distribution of property among the members of the household to suppose the system broken up when the number exceeded seventeen, and the extrusion of the senior member was a devise to avoid this difficulty. Sir H. S. Maine's explanation of this passage, supposing it simply to express a late mode of dividing household property upon the analogy of the prior distribution of family property, may be adopted with the exception of the continuance of the parent in the geilfine division.* The addition member of that division was, it seems, introduced from the older system, and retained after the reason for the fact had been forgotten.

Assuming the original geilfine system to have been such as has been suggested, the principle for the division of the property of the household laid down in the Book of Aicill is clear and consistent.

The actual relationship of the members of a fully devel-

* Although great weight is to be attributed to the opinion of Sir H. S. Maine, it may be fairly conjectured that at the date of the Commentary upon the Book of Aicill the rules for the distribution of property in the case dealt with were a mere survival of an organization which had practically ceased to exist, and that the seventeen consisted of the seventeen junior male descendants of the stirps, without reference to the original number of sons, and that these seventeen were arranged in classes after the analogy of the ancient divisions of the family. The anomalous results which would follow in some cases where the number of male descendants exceeded seventeen would not be more extraordinary than those which in exceptional cases occur under all systems for the distribution of property after death.

oped geilfine system, if all the members died off at regular intervals, would be as follows. The members of all the four classes would then be the descendants in the fourth degree of the original acquirer; the "*geilfine*" division would be the first cousins of the *deirbfine* division; the second cousins of the *iarfine* division, and the third cousins of the *innfine* division; the *deirbfine* division would be the first cousins of the *geilfine* division; the second cousins of the *iarfine* division, and the third cousins of the *innfine* division; the *iarfine* division would be the second cousins of both the *geilfine* and *deirbfine* divisions, and the third cousins of the *innfine* division; and the *innfine* division would be the third cousins of the three other divisions. Their relationship might also be traced by representation, that is by the relationship which at the first existed between the original members of each division, in which view the *geilfine* division would be the nephews of the *deirbfine* division, the great nephews of the *iarfine* division, and the great great nephews of the *innfine* division; the *deirbfine* division would be the uncles of the *geilfine* division, the nephews of the *iarfine* division, and the great nephews of the *innfine* division; the *iarfine* division would be the uncles of the *deirbfine* division, the great uncles of the *geilfine* division, and the nephews of the *innfine* division; and the *innfine* division would be the uncles of the *iarfine* division, the great uncles of the *deirbfine* division, and the great great uncles of the *geilfine* division. As upon the failure of any class the property is to be divided among classes and not *per capita*, their shares are in the first instance determined by the assumed natural relationship of these divisions, and if this does not differentiate the classes, then by their representative relationship; the nearest class taking three fourths, the next three sixteenths, and the most remote taking one sixteenth. On the extinction of the geilfine, three fourths would pass to their first cousins the *deirbfine*, three sixteenths to their second cousins the *iarfine*, and one sixteenth to their third cousins the *innfine*. On the extinction of the *deirbfine* three fourths would pass to their first cousins the *geilfine*, three sixteenths

to their second cousins the *iarfine*, and one sixteenth to their third cousins the *innfine*. On the extinction of the *iarfine* division, a difficulty would arise, as both the *deirbfine* and *geilfine* divisions would stand in the same relation, viz., that of second cousins, and their respective portions would have to be determined by their representative kinship; the *deirbfine* division as representing nephews would take the precedence of the *geilfine* division as representing great nephews, and three fourths would go to the *deirbfine* division, three sixteenths to the *geilfine* division, and one sixteenth to the *innfine* division. In the case of the extinction of the *innfine* division, all the other divisions stand to them in same degree of actual kinship, and the division of the property would follow representative kinship exclusively, three fourths passing to their nephews the *iarfine* division, three sixteenths to their great nephews the *deirbfine* division, and one sixteenth to their great great nephews the *geilfine* division. The distribution of the property of any two extinct classes follows precisely the same rules; if the property of each class be separately divided in the proportion of twelve to four between the surviving classes in accordance with their nearness of kinship. Thus upon the failure of both the *geilfine* and *deirbfine* division, the property of both is divisable between the remaining classes, their second and third cousins, three fourths to the *iarfine*, and one fourth to the *innfine* division; but upon the extinction of the *iarfine* and *innfine* divisions, the two surviving classes standing in the same degree of actual kinship to both, the principle of representation is introduced and three fourths pass to the *deirbfine* and one fourth to the *geilfine* division.

This mode of explaining the *geilfine* system gives the key to the rules laid down in the 39th page of this volume. The passage referred to is an attempt to lay down the rules for the succession to a female in the technical terms used in reference to the organization of the family. It appears from the gloss that the rules 3 and 4, in page xlii, deal with the succession to the property of a deceased female,

and that the grand-children and great grand-children, there referred to, are not those of the deceased female, but of the original settler, if we may use this modern term. It appears that the hereditary right to the vacant lands did not extend beyond the fourth generation of the stirps, and that descendants of the several generations are conceived as co-existing. The existing descendants of the original stirps may be classed in two modes, either as constituting a geilfine system, or classified with reference to the relationship which the original members of any division of such a system would have borne to the original stirps. In a fully formed family the members of the *geilfine* class would be the original members of their division and descendants in the fourth generation of the stirps; the *deirbhfine* class would represent their fathers, the descendants in the third generation, and similarly the *iárfine* and *innfine* would represent ancestors who were the grandsons and sons of the original stirps; thus the terms *geilfine* and *deirbhfine* might in a secondary sense be used to designate descendants in the fourth and the third generation. The four generations of the male issue of the settler seem to have been regarded as forming four classes equivalent to the classes of the geilfine system, and having similar rights of property and succession *inter sese.**

Upon the completion of the *Geilfine* system the "family" does not appear to have dissolved beyond the extinction of hereditary rights in the land of the family; the organization still continued upon the basis of mutual guarantee and liability; the seventeen houses (or the lesser number actually in existence) formed the patriciate of the "family," jointly liable for the compensation for the wrong committed by members of the family, and jointly entitled to share in certain proportions in the compensation payable for wrongs inflicted upon members of the family. The chief represented henceforth the "family;" not the hereditary rights of the original acquirer, for property falling in from externs vested not in him but the *geilfine* class; to the last the distinc-

* The difficulty in this explanation is the incomprehensible glosses, page 41, lines 30 and 31. It may be suggested that the glosses in question have been transposed.

tion of the "tribe" and "family" must have been clearly marked, the family rested on the lands of inheritance booked to the original acquirer, and *as a family* had no property external to that, the tribe possessed the general undivided tribe lands and the waste pasturage lands; these latter it is to be observed cannot have been included in the lands of the "family" which were finally divided upon the completion of the geilfine system. The claim of an individual to share in the pasturage was founded upon his being a member of the tribe, and had no connexion with his membership of a family, and when, we proceed to consider the Crith Gabhlach, it will be clear that, in the organization of the tribe, the family was wholly disregarded, as in the legion, the individual citizens were equal in the face of the law, and the paternal authority disregarded.

The conclusions, to which we arrive, may be briefly stated as follows:—(1) the *geilfine* system was an ingeniously contrived organization of the "family" with the object of keeping it together upon the basis of mutual guarantee, founded upon the antecedent rules of succession to lands of inheritance (*orba*); and of retaining the lands of inheritance in the descendants of the original acquirer, as far as the existing rules as to "remoteness of limitations" permitted; (2) that it was contrived in the interest of the noble classes, who possessed sufficient influence to procure portions of the public tribe lands to be granted to them and their families to the exclusion of the rights of the general body of the "tribe"; (3) that as the general tribe lands were appropriated by the noble class, the system in its earlier stages gradually became obsolute, and merely a subject of antiquarian enquiry; and that the later commentators, especially when once the idea of seniority as the basis of succession had been established, were unabled clearly to explain its origin and probably found more difficulty in understanding it than does the modern student; and (4) that the system when existing in its latest state of survival was adopted as the basis for a system of rules relative to the distribution of the property of an household, to which in its origin it had really no analogy.

IV.

On the Incidence of Fines and Compensation for Crimes.

It is a cardinal principle of the Brehon Law that the liability to pay the fines and compensation for crimes, committed by a member of a tribe or family, should fall upon the persons who would be entitled to his property upon his death, and in the same proportions.

In this volume there are contained two tracts as to the persons by whom, and the proportions in which, such fines and compensation should be paid, viz., the tract entitled "Of the Judgment of every Crime which any Criminal Commits, &c.," and that entitled "The Land is forfeited for Crime." If we could therefore succeed in ascertaining the mode in which such fines and compensation should be assessed upon persons other than the criminal himself, and in what proportions the fines and compensation payable for the death of any member of a tribe or family should be divided, we cannot fail to acquire a certain degree of knowledge as to the distribution of property upon the death of the owner, and shall be in a position to understand the otherwise obscure rules as to the succession to land contained in the first tract published in this volume.

The former of these tracts would appear to be of a very modern date, and not to be free from the influence of the principles of English Law. The reasons upon which the conclusion is arrived at are the following: (1) it distinctly recognises acts of violence to be crimes, and does not regard them as merely torts, treating the consequences of crimes in the light of punishments for wrongful and illegal acts; (2) the payments to be made by the criminal or his guarantors are considered as compromises by which he may escape the punishment due to his crimes, not as arrangements by which the quarrel between the parties is to be compromised; (3) it seems to recognise a coercive jurisdiction as possessed by the Judge to which the parties were obliged to yield; (4) it treats the execution of the criminal, his imprisonment, or his servitude as the possible

consequences of his crimes, and, as a logical result, discusses the contingency of his evasion to escape punishment.

All these ideas are manifestly foreign to archaic law.

The extreme vagueness and uncertainty of the use of the terms "deirbfine" and "geilfine" in this tract are very remarkable; an uncertainty very puzzling to the authors of the glosses and commentary, who have frequently to correct and explain the manner in which these words are used.

It appears that the former term is indiscriminately used in three different senses: (1) as descriptive of all the members of the *geilfine* organization, (2) as the *deirbfine* class as distinguished from the *geilfine*, and (3) as a term descriptive of certain relationship merely.

The glosses and commentary are especially important in dealing with this tract, as without a very careful reference to them erroneous conclusions may be derived from an unaided examination of the original text.

The tract commences with a statement of the property and persons liable to the payment of fines and compensation. The rules of the priority here laid down may be summarized as follows:—(1) The criminal himself was primarily liable; this is to be inferred from the words, "If he absconds," commencing the paragraph, and stating thus the contingency upon which the subsequent secondary liabilities arise; (2) The property moveable or immoveable of the criminal in the second degree was liable; when we proceed to the second tract upon the subject it will appear that this liability was considered as a charge specifically affecting the property in question; it may be observed that this rule involves the idea that the injured party had a *legal right* to the payment of the fine and compensation, a theory of anything but an archaic nature. (3) His father was liable in the third degree, whose liability is obviously founded not so much upon kinship, as upon his position as the head of the household of which the criminal was a member; this passage is glossed with the explanation, "when he has no son, for it is upon him (*the son*) it (*the crime*) should go before it went upon the father;" we may conclude therefore that the author

of the gloss would introduce the son into the list in priority to the father; it would appear that the original text contemplates the criminal as forming portion of his father's household, but the author of the gloss perceives that the case of the criminal being himself the head of an household has been omitted, and points out that in such case the son whether as the co-owner of the household, or next in blood would be primarily liable; the old rule of the "coir-feine" law cited in the gloss proves that the liability did not affect ancestors or collateral relations so long as there was in existence issue of the criminal to be made answerable. (4) His brothers, in equal shares; with brothers the liability by reason of kinship here stops short, for the next class in order are (5) his "*deirbfine*" (not deirbfine relations as in the translation, for there is no word in the original equivalent to relations); this word is explained in the gloss as equivalent to "geilfine," and must therefore mean that the liability fell upon the members of the *geilfine* organization, falling upon the several classes successively, and ultimately upon their default upon the *geilfine* chief personally; such at least is the conclusion we draw from the following gloss; viz.: "Upon the chief, i. e. the chief who is over the *geilfine* division which happens to be there; and it is not the chief of the *deirbfine* divisions, nor of the *iarfine* division. It is on them (*the geilfine division*) the crime is charged before he brings it to the "*deirbfine*" division from whom he [*the chief* (?)] has taken their pledges." (6) The household in which is his bed and where he is fed, which seems to mean that the liability then falls upon those who have harboured him and assisted his escape, for these words are qualified by the gloss: "if he is not caught upon his bed." (7) The king, the head of the tribe, as contrasted with the head of the family.

The second paragraph is evidently introduced from the work of some other author, as it is merely a re-statement of the rule laid down in the first paragraph, in a much less satisfactory form. It is remarkable that in the paragraph there is introduced after the "*deirbfine*" a class described as the "taoibhfine," glossed as "his brother's side family." This would lead to the conclusion that in the latter para-

graph the "deirbfine" meant not the members of the *geilfine* organization, but the first-cousins of the criminal. It is, however, not desirable to embarrass the clear statements of the first paragraph as explained by the glosses, or to start conjectures resting upon a paragraph so confused as the latter undoubtedly is.

A mere sojourning stranger, from whom the chief had not and could not have taken pledges, if guilty of a crime, and not possessed of property, did not render any of the family or tribe liable to contribute to the fine or compensation payable in respect of his crime; he was simply "put upon the road," declared "exlex," and abandoned to his fate.

(The principle that the liability to pay should be commensurate with right to receive is remarkably laid down in the following rules contained in the Commentary:)

In the case of any unintentional* crime except "killing," the *eric* fine is primarily payable by the criminal; the compensation ("*what he owes beside the eric fine*," i.e. the honour price) is payable by his family "in the proportions in which they divide his property."

In the case of unintentional "killing" (with certain exceptions) both the family and criminal contribute to pay the entire, whether he has means of payment or not, the criminal paying one "*cumhal*" of the compensation, and the same share as his father or son in the six *cumhals* of *dire* fine, the family contributing the residue in the shares in which would divide his property. The reason for this rule is stated to be that if he himself were killed the entire family would participate in the compensation.

As to intentional crimes, the rule was different. In such cases the criminal, his son, and his father were successively liable to the full extent of their property in exoneration of the family.

When payments have to be made by the criminal, they first fall upon his movable, secondly upon his immovable property, and finally upon himself, by which is

* In page 249, line 1, "*intentional*" is printed by mistake for "*unintentional*."

meant that he should serve for it until he worked out the value of six "cumhals."

At page 259 is discussed the proportions in which the amount payable for "killing" should be divided among the kin of the deceased. The words of the Commentary are as follows:—"When the man who is dead in this case has a son, he takes the *cumhal* of compensation alone, if he be alive; and if he is not alive, his father is to take it; if he (*the father*) is not alive, his brother is to take it; if he (the brother) is not alive, it is the nearest person to him that takes it. It is thus the body-fine is divided—three *cumhals* of *dire*-fine go to the son and to the father. There are three cumhals of *dire*-fine remaining after that; a *cumhal* of *dire*-fine goes to a brother (*the brothers?*) collaterally. There are two *cumhals* of *dire*-fine still after this; a *cumhal* of *dire* fine of these goes to the son and to the father. There is one *cumhal* of *dire* fine there after that. This is to be divided from the lowest man of the *geilfine* division until it reaches the uppermost man, and from the uppermost man until it reaches the lowest man," &c.* Thus, of the six

* This passage illustrates the connexion between the ather and son which so often occurs in ancient law. As long as the son forms one of the household of which the father is the head, he is obviously one of those in the hand of his father, and a co-owner of the household property; but even after he has left the original dwelling and established a hearth for himself, he does not completely succeed in shaking off his connexion with his parent. Hence the three emancipations requisite at Roman law to free the son from the *patria potestas*. It is with reference to this principle that we may explain the passage in the last volume which has produced so much discussion, viz.:—"If the father is alive and has two sons, and each of these has a family of the full number—*i.e.*, four—it is the opinion *of lawyers* that the father would claim a man's share in every family of them, and that in this case they form two geilfine divisions; and if the property has come from another place—from a family outside, though there should be within in the family a son or a brother of the person whose property came into it, he shall not obtain it any more than any *other* man of the family." (Vol. iii., p. 333.) From the present passage it is clear that, although the son established a separate household for himself and his sons, the father took a share in the money payable for his body fine; and hence it may be inferred that the father was entitled to support in the son's house. If a son obtained *orba* lands, and, having four sons, established an independent "geilfine" system, it appears that his father could claim a man's share in it. The point of the question in the passage referred to seems to be, what was the position of the father if he had two

cumhals of the dire fine, the father takes two, the son two, the brother one, the geilfine division one. As to what is styled the compensation (the honour price) none of it passes to the geilfine division; this the son, in the first instance, is entitled to; in default of a son, the father; in default of the father, the brother (or brothers); and in default of a brother, the nearest person to him, by which we must understand that it passes as a succession to the person or persons who would be entitled to the brother's property upon his death. This Commentary is appended to a text which deals with the question, "Who are they who divide the chattels and the *dibadh* property (of a deceased person?). The answer to this in the original text runs simply thus—"Four, father and son, brother and family." The Commentary, however, upon this text deals with the mode in which compensation and *dire* fines are divisible, and between whom. Nothing can show more clearly that to the commentator the persons entitled to "dibadh" property and to compensation and dire fine were the same and in the same proportion; but he has certainly failed to explain whether it was in accordance with the rule applicable to the compensation, or according to that applicable to the *dire* fine, the dibadh property would devolve. It would seem that the rule applicable to the compensation, not that applicable to the dire fine, is the analogy to the rule for the devolution of the debadh property. The rule

sons, who had both obtained grants of orba land, and severally founded distinct "families" in which of them should the father take his "man's share" and how should his rights be arranged as between the two families?

The opinion referred to laid down that the father had a distinct and independent right to a "man's share" in both of the families, although they formed two distinct geilfine divisions. The second portion of the passage points out the distinction between the rights of a father and that of any other member of the family in the form of an argument, viz.:—"So different is the position of the father from that of any other member of the family, that in the preceding case the father has his right to a 'man's share' in both families, although in the subsequent case no member of a family, whatever be his apparent equity, has any special rights whatsoever." The father in the supposed case would occupy the anomalous position of being a member of two incipient "families."

as to the *dire* fine laid down in this passage is wholly inconsistent with that stated in page 247, line 2. The latter passage is introduced as explanatory of the rule in page 245, line 26; but it must be observed that the explanation is inconsistent with the rule which it is supposed to explain, and that, to make any sense of the passage, we must read at line 4 of page 247 "share in" for "take." Now, the whole explanation is introduced to explain the apparent anomaly of the family contributing to the payment of the compensation for an unintentional killing, and no such explanation would be necessary unless the fact of the family sharing in the liability to pay, and the right to receive compensation presented some difficulty which required explanation. This difficulty must have been that the rules as to compensation were in some extent inconsistent with what would have been naturally expected to have been laid down upon the subject—that is, that they deviated from the fundamental principle of the rules as to liability to pay or receive fines and compensation with those which regulated the devolution of property upon death.

If the family, by which we must understand the parties liable in the second degree, paid the amount to which the criminal himself was primarily liable, they acquired a charge upon his property, which they could enforce to taking possession and the receipt of the profits. "The limit of *the duty of* the family which pays his, the kinsman's, trepasses until they are paid back every 'sed' which they have paid, together with its profit, the grazing of the grass, nor the must, nor the corn do not go into account against them."*

The injured party appears to have possessed a similar right as against even the land of the wrongdoer, if he had land, but the members of the family could discharge the claim against themselves by handing over the criminal, and retain the land for themselves. "And the family have the choice whether to hand him over and have the land to

* Page 257.

themselves, or whether they will give the land for the crime; and it is within the choice of the family this lies." It follows from this passage that the injured party had an acknowledged, and acquiesced in, right to seize even the land of the wrongdoer in payment of his demand, which would have led to the very inconvenient result of a stranger being settled upon the tribe or family land; what would be the legal status of the stranger is difficult to understand, whether he would be entitled only to the profits of land held by the wrongdoer in exclusive ownership merely, or whether the possession of the land would have drawn with it the accessories of sharing the common tribe land, and the depasture of the waste; to avoid this difficulty the family might surrender the wrongdoer, and themselves acquire his portion of land.

The second tract entitled "The Land is forfeited for Crimes," is of a very miscellaneous nature, and of a palpably late date. The idea of the forfeiture of the lands of a criminal, irrespective of their value and amount, arose in the English and other feudal systems from the nature of the tenure of land. The lord possessed the absolute ownership, the tenant only the usufruct upon the condition of the performance of the incidents of his tenure; the commission of a felony, in its nature a quasi-treasonable act, terminated the right of the tenant to the usufruct, and the land escheated to the lord of whom it was held; the escheat of the land in such a case rested upon an entirely different basis from that of the forfeiture of the felons' goods; but when the land was held in absolute ownership, and the possession of the owner was that of the head or member of a family, although his goods might be forfeited, the land could not; the law as to the gavelkind lands of Kent was a survival and illustration of this principle. In the preceding tract the wrongdoer either lost the possession of his land temporarily until its profits paid off the amount to which he was liable, or absolutely as the result of his loss of status, not as a punishment in the correct use of that term. The author of this tract has thrown together a number of loose memoranda and references to

authorities upon the subject of the forfeiture of land, and the fines payable in respect of theft, in a manner which would suggest that they represent the heads of some law argument upon the subject. The case upon which he relies is the remarkable decision as to the forfeiture of Bregia by the tribe of Aengus Gabhuaidech, in consequence of the latter having wounded in the eye the King Cormac at his palace at Tara; the circumstances of the case are fully set forth at the commencement of the Book of Aicill in the preceding volume. It is to be observed that in the original authority there is no allusion to a forfeiture of the land at all; the decision was that the members of Aengus' tribe should undergo a "diminutio capitis," viz., that in a certain proportion the inhabitants should be reduced to the condition of "daer" stock tenants; and that which is treated as a forfeiture of the land arose from their refusal to submit to the sentence, and emigrating in a body into Munster. Our author treats the transaction as essentially a forfeiture in the nature of a punishment for a crime. "For what old Adam did great things were lost," *i.e.*, as by the transgression "all the fruits of Paradise were forfeited by Adam, so his lands were forfeited by Aengus."*

Various other passages prove the late date of this tract, and that it was written either by an ecclesiastic, or under ecclesiastical influence, such as the following extract noted down for citation, "God has not formed corruption nor any particular species of violation, the merciful God deems such things atrocious; unless land is given no umpire can heal them, *i.e.*, unless land is obtained as the eric-fine the crimes cannot be taken away, though it be a righteous judge who estimates them, for he would pronounce no falsehood."† In a subsequent passage we find an extract from the Gospel of St. John introduced by the well known phrase of "*ut dixit lex.*" It would appear in

* Page 267. The peculiar judgment upon this occasion may have arisen from the fact that Aengus, when he wounded King Cormac, was acting in an official character as the "*aire-echta*" of his tribe.

† Page 265.

one passage that the author was attempting to introduce the doctrine of the Roman "hæres."*

Although evidently drawn up for some practical purpose, the tone and manner of this tract closely resemble portions of the introduction to the Book of Aicill, which the author manifestly had before him, and it is probably of the same and as late a date.

Apart from a few incidental extracts from previous authors, it cannot be considered as an authority on the Brehon Law, and is valuable as illustrating the change to which the older system must have been subjected from the influence of the Church.

At the date of its composition the Irish lawyers were perplexed by the conflicting ideas of the old law on the one hand, and Christianity and the Roman Law on the other, the state of mind so curiously exemplified by the introduction to the laws of Alfred.

V.

The Succession to Land.

In the preceding section we have endeavoured to ascertain the proportions in which fines and compensations were payable by the parties secondarily liable, as affording some reliable information as the rules of succession to property, and enabling us thus to explain the passages in the first tract in this volume dealing with the subject, and as also explaining the practical effect of the geilfine system upon the succession to land.

However strongly the rule may be laid down that the liability to pay the fine or compensation falls upon those who would be entitled to the property of the wrongdoer upon his death, and in the same proportions, it is clear that this liability could only fall upon the persons *in esse* at the time, those resembling the class of persons entitled under an ordinary English settlement of real estate, whom we should describe as having vested estates in remainder, and must exclude the unborn issue of all such,

* Page 267.

although such issue may subsequently come into being, and succeed to the possession of the estate. The rules for the incidence of these payments must have been drawn up to meet ordinary cases; and the more complicated and unusual must have been decided according to the principle involved in these rules—involved, not expressed—because the Brehon lawyer is always dealing with specific concrete cases, and however elaborate in his arithmetic calculations, never attempts any abstract rule or definition. Before discussing the rules as to the succession of land, it may be observed that to a large proportion of the tribe land the legal idea of a succession must have been inapplicable. It is now an admitted fact that the Irish tribe was not in its organization an anomalous institution, but was simply one example of those village communities which existed among all the early Aryan nations, and that the forms of all these communities resembled each other in their general features. In all the numerous books published lately upon the subject, this principle has been laid down; and the difficulty in dealing with the subject at present is not to discover analogous cases, but to escape being entangled in or misled by the countless examples of institutions more or less similar, with which we are now so abundantly furnished. The district of the tribe was at first as a matter of fact, and was always in theory considered to be, the property of the tribe; from this are first to be subtracted the dwellings of the members of the tribe, with their curtilages; next the chief's share; and lastly, those portions of the general tribe land which had been in same manner (it is immaterial how) allotted to individuals or families in exclusive ownership. The residue of the lands, unappropriated to indviduals, consisted of the common tillage and meadow land, and the common pasture or waste. The common tillage and meadow lands were divided out from time to time in separate proportions, and according to some customary law among all the members of the tribe who also enjoyed the right to depasture the waste according to certain fixed rules. It is clear that to these latter two classes of land the idea of

succession is wholly inapplicable; the right to till or graze the public lands was a purely personal and temporary right enjoyed by the individual as being a member of the tribe, and enjoyed by his sons, not by any hereditary right, claimed from or through their father, but in their own right as themselves being members of the tribe for the time being. The ownership of these lands was vested in the collective tribe, but the rights of each member were personal, temporary, and incorporeal. But the nature of the interest of the owners in land cut out of the general tribe land, and allotted in exclusive ownership was entirely different. They claimed under a grant made to one or more persons, and made their title through the grantee or grantees; this title to land is usually spoken of as being hereditary, and the land in question described as inheritable land, or land of inheritance; but it does not follow that although the title must be made under a particular grant, and through the original grantee, that the actual owners stand in the relation of "heirs" to the person through whom they claim. Our modern ideas of inheritance and heirship are involved with those of the transmission of property by descent and primogeniture; and much of the confusion which exists upon this subject, has arisen from the inquiry proceeding upon the assumption that purely local and arbitrary rules of our own municipal law are universal and eternal principles.

Land might be allotted in separate ownership for a limited period (*e.g.*, for a life), or in perpetuity; but although the former class of grants are found among the A. S. charters, in the case of the Irish tribes we have no reason to believe that the grants were limited in duration.

When land was alienated in *perpetuum*, it passed upon the death of the original grantee to the person or persons entitled, according to the custom, to the succession to his property; such persons might, or might not, be identical with his nearest agnates; but even if they were, it did not follow that their title to the succession was founded on descent or even blood relationship. The origin of all successions appears to be not descent, but co-ownership.

The legal unit is not the individual but the household; the head of a house acquires property for his household, and possesses it as the manager of an implied partnership, not as an absolute owner. The household need not include all his descendants, or consist exclusively of them. The emancipated sons, under the old Roman, would not have shared in their father's property, which would have passed to an adopted son. Our ideas as to the transmission of property in ancient times are, perhaps, embarrassed by too exclusive a reference to the Roman law, in which the hæres presents a misleading resemblance to the feudal heir; but in countries in which the technical unity of the family, exhibited in the existence of the Roman hæres, was not continued, the succession was manifestly equivalent to survivorship among joint tenants; and this principle of survivorship applies not merely to the property of the head of the household, but to that of every member of it. Let us observe how a perfectly simple process is obscured by the use of words. If a household consists of A, the father, and B and C, the sons, they are co-tenants or co-partners in the property of the household, with the father, A, as the manager; if the father, A, dies, the property survives to B and C, the sons; in this case the sons would be commonly spoken of as taking in the character of their father's heirs. On the other hand, if B, one of the sons, dies, the property survives to A, the father, and C, the surviving son; we should in this case think that no rights to property had passed, and speak of the possibility of B succeeding to his father as having ceased. Again, if a third son, D, is born no visible change has taken place, but, in fact, a new member has been introduced into the joint tenancy or partnership, and the rights of the three original joint tenants, diminished *pro tanto*. The extent to which heirship is traced in the collateral line in any ancient law depends upon the greater or less magnitude of the original joint family. If, for any reason, families have hung together for several generations, continuing to form one household, the death of each member increasing the shares of all the

other members in the common fund, the extent of collateral heirship admitted by the customary law may be very wide; and, on the other hand, it will be probably found that in the case of a nation which, from some external reason, has acquired the custom of inhabiting small and distinct habitations, the degrees of collateral heirship will be contracted, unless the idea of relationship be kept up by family religious rites. The reason for the rule that the liability to pay fines and compensation falls upon the persons who would take the property of the criminal, and in the same shares, is that, as the family has to pay for the wrongs committed by its members, the payment falls upon the common fund, and diminishes *pro tanto* the shares of all who take by survivorship.

This is illustrated by, and explains, a difficulty which arises as to the incidence of, and the rights to, fines. In some passages the father is the person primarily liable, in some the son, and in some they are represented as jointly entitled to the compensation. Who in any given case were entitled to the succession, or liable for wrongs, must originally have turned upon the question of fact, who, at the date of the death, or of the crime, were the members of the household to which the deceased or the wrong-doer belonged.

The rules as to the succession to land have been embarrassed by the use in the Brehon Law of words descriptive of different kinds of interests in lands, or, rather, of lands distinguished by a reference to the nature of the interests of the possessors; and the terms used are such as involve a cross division. The primary distinction between the general tribe-land and the lands of inheritance is perfectly clear; the former are the *fearan fine*; the latter are the *orba* lands. The latter class of lands are subdivided into those upon which the geilfine organization had been, and those in which it was not, established. The former lands are described repeatedly as "coibne" land—that is, land which was the property of an organized association of persons. The root of the word seems to imply something like the spreading of branches from a common stock, and it

is frequently used to denote the association of different individuals considered as one body in a legal point of view. There also occurs another term frequently used as descriptive of land, viz., "dibadh," the explanation of which involves much difficulty. It is used, as has been observed, in the first tract as descriptive of common tribe land as contrasted with coibne land; it is also used to express the property passing from a deceased to the parties entitled to the succession, and it is used in the latter sense evidently to describe the share of a deceased co-owner in coibne land when it passed by succession. It would appear that the term is used rather in opposition to the term "coibne" than as descriptive of any specific class of lands, and desigates land which is divisible among various parties as tenants in common, and not as members of an association. The same land might be described as either "coibne" or "dibadh," according to the rights of the individuals then under consideration. The question as to the succession to "cruibh" and "sliasta," the interests in which were created by express contract, may be postponed until after that of the two other classes—viz., (1) land of inheritance not subjected to the geilfine organization, and (2) lands upon which a geilfine organization had been established

Assuming that the penalty for wrong falls upon the household of the wrong-doer, and that the succession to his property would take the form of a survivorship of the other members of the household, three possible cases would arise—

(1.) If the wrong-doer, or deceased, as the case might be, were a member of his father's household, the liability would fall upon the father, and the share of the deceased pass to him, in both cases in his character of head of the household.

(2.) If the son did not go out during his father's lifetime, and after his death continued in the house in joint possession with his brothers and their descendants, the latter would both incur the liability and take the succession, in each case as the co-members of the household, but the transaction would apparently be different from the preceding case, for the fact of the succession would be here apparent.

(3.) If the son had gone out and established himself as the head of an independent household, the liability would fall upon, and the succession accrue to, his own children or remoter descendants, the co-members of the household, and in this case there would appear to be liability and heirship resting upon descent.

The right to fines or compensation would follow the same rule as the liability to pay them.

In the latter two cases, if we were to speculate who at any given time might be the co-members of the household, our calculation would include all persons necessarily members of the house who could come into being during the life of the wrong-doer, or deceased.

The two tracts in question in various passages state the persons liable to pay and entitled to receive fines and compensation. The statements are apparently contradictory, but a clear idea of the order of priority may be obtained by a careful comparison and analysis. We may disregard the passages in which the general word "family" is used; in all such cases the liability of the members of the family among themselves would be *secundum legem*, and this must be necessarily implied. We may similarly disregard the passages in which the term "the nearest hearth" is used; this term must either mean the household next liable in order according to law, or refer to cases inapplicable to the question of succession.

In page 243 the order of liability is thus described:—(*a*) the father; (*b*) the brother; and (*c*) the geilfine (see the gloss as to the latter term, and the preceding gloss introducing the son in priority to the father). In page 245 it is—(*a*) the brother; (*b*) the geilfine division; (*c*) the deirbfine; (*d*) the taoibhfine or the iarfine division; and (*e*) the iarfine. In 247 it is the son. In page 269 it is—(*a*) the son; and (*b*) the father; and in pages 249 and 268 it is simply the geilfine.

As to the right to receive the compensation, in page 245-6 we are told that the body fine for the death of father or son is payable to the entire family. In page 255 the father and

the son of the slain take half the eric fine between them. In the page 259 the body fine of six cumhals is divided in the following proportions:—To the father, two; to the son, two; to the brother, one; and to the geilfine, one.

These fluctuating dicta involve no real contradiction. There is no statement in any of them inconsistent with the others, if we suppose that on each occasion the author is dealing with some specific case, asserting the liability of some individual defendant, but not defining the order of liability of the persons secondarily liable as among themselves.

Bearing in mind the principle, "As long as there is a family before him, it is not backwards he sues," there can be no difficulty in stating the order of liability and the reasons for it.

The liability falls first upon the persons who would be the members of his household; if he were the head of an household, its members would be his own sons, and, therefore, upon the son the liability first falls.

If he has not left his father's family, the liability falls upon the father as the head of the household; if he were dead, those next liable are the brothers who would have been joint owners with the criminal.

Thus the liability is confined to the persons who were, or had been, members of the same household with the wrong-doer; but at this point the liability of relations stops, and the geilfine division of the "*fine*" assumes the liability. There was no intervening liability between that of brothers and that of the general "family."

If we now attempt to translate this priority of liability into a theory of the succession, the following observations appear of importance:—

(1.) The rule that the parties liable pay the fine in the proportions in which they would divide his property, does not imply that *eo instanti* upon death the property would have been divided among the parties named; it means that the liability, as a *damnosa hereditas*, or negative quantity, pursues the same line of succession as the actual inheritance would have pursued.

(2.) The term son must be read as "sons," and inclusive of the descendants of sons, and the observation applies to the term "brother" also.

The sons of the deceased take in priority to his brothers; but of such a rule, when once admitted to exist, there are two possible explanations, either (*a.*) that the brothers succeed if the deceased die without leaving sons or lineal descendants surviving him, or (*b.*) that the brothers, or their descendants claiming through them, succeed to the inheritance upon the general failure of the sons or their descendants, as we should express it, upon the general failure of the male issue of the purchaser; or, as it might be put, whether upon failure of male issue of the original acquirer, his brothers or their descendants would claim as his heirs, or as the collateral heirs of the last of the issue. This involves the question what was the nature of the interest taken by the sons of the deceased in his lands. At the present day, and in the English Law, the eldest son, succeeding as heir to an estate in fee, takes the estate absolutely without any obligation to transmit it to his own heir; according to the old French law of substitutions the eldest son took the estate, but was deprived of all power of alienation, so that the succession upon his death passed to his heir; and the principle of the Scotch tailzie is similar.

In all early systems of law the idea of primogeniture is absent, and the land passes to all the sons; supposing it thus to pass, the practical working of the rule of descent hinges upon the question whether these sons take as absolute owners, with full powers of alienation, or whether all the male descendants of the ancestor have a claim to a portion in the lands which cannot be defeated by their predecessors; and if so, how long does this right exist, or at what date is it extinguished?

Although the tribe may be considered as perpetual, and its members, at however remote a date, retain their rights in the common land, there is no indication that the lands of inheritance were subject to such a rule, which, if it existed, would have bound property in a perpetual entail, and pro-

hibited alienation. It is to be remarked that in no passage is there allusion to land passing to the descendants of an owner generally, and *in perpetuum;* on the other hand, there are frequently allusions to the four first generations of the descendants of the deceased, and the clearest intimation that the head of a family, who was an owner of property, could not alien for his own purposes, to the injury of his descendants, and that there existed in the sons a certain right to the father's land, sufficient, at least, to restrain the latter's power of alienation. The residue of the land of the "*fine*" remains undivided until the constitution of the "innfine" class, which fixes a date connected with existence of a fourth generation of descendants.* Lands were estimated "according to the amount of their property from great-grandson to the great-great-grandson;"† this passage is explained as stating the mode in which land is divided upon the death of a daughter (who must be a daughter, not of the original ancestor, but of the survivor of his sons—although this is immaterial), upon whose death the latest descendants entitled, are specified as the great-great-grand-children of a common ancestor.

A remarkable passage occurs in page 287, which, whether it refers to estates of "*fuidhirs*," or separate property in land generally, expresses the author's idea of hereditary succession. "The son is enriched in the same ratio as his father, and the father does not sell anything to the prejudice of his sons, grandsons, great-grandsons, or great-great-grandsons." Thus, an owner of land was restrained from alienation in favour of his four next generations of descendants, which implies that all the members of these four generations took an interest in the lands of their ancestor; and, if these four generations had thus joint rights in the land, as quasi-joint tenants, the death of any one would operate as a survivorship for the benefit of all the existing members of the class, and the shares in the land would vary, from time to time, according as new members were introduced upon their birth; and if this hereditary right was

* Pages 283-287. † Page 33.

not transmissible beyond the fourth generation, all the existing members of the class at the date of the last division (the date of the introduction of the last member into the class) would hold in severalty, and form respectively new hereditary stocks. It may be suggested that the reason for the assumption of four generations as the basis of this system of descent, was as follows:—the land vested in the original acquirer, as head of his household, and as a portion of the joint property, which he could not alien during his life, and the rights of those who succeeded to the land were based upon the theory of their being the surviving members of his household. When the fact of succession passed into a theory for succession, the right of succession would be given to all those who could possibly have been existing members of the household at date of the death of the head, and descendants of the fourth degree were considered as the most remote who could stand in that position. A law of heirship founded upon such a basis would draw the limit of collectoral heirship at third cousins; this may seem to some a very narrow and imperfect scheme of title by descent, but the difficulty seems to us not to reduce it to this limit, but to extend it so far. The succession, in default of sons, passed first to the father, and then to the uncles of deceased, but manifestly all more remote collateral relations were excluded, and the succession of the geilfine class was equivalent to a succession to the family to which the deceased belonged. The rights of the heir-at-law, however remote his relationship to the deceased, is a purely English and modern idea, imported into the feudal law by a very transparent fiction, and almost within the present generation, systematized by recent statutes. As against the father or the brothers, there does not seem to have been any restraint upon alienation, and naturally because they could not have been members of the household of the deceased, and they could not be considered, except by a fiction, as having any joint ownership with the deceased in the subject matter of the succession. The "alienation" applied to the ownership of land, such as we are dealing with, must be understood as

alienation in accordance with the local custom, and so far as it was thereby permitted, and is not to be confounded with the unrestricted rights of disposal, which we now associate with absolute ownership.

In considering any rules of descent, it must be remembered that the terms son, brother, &c., are correlatives, and possess no meaning until we have ascertained who is the father, brother, &c., to whom they refer—until we have fixed the stirps, the relationship to which determines the succession. The original stirps must manifestly be the head of the household, when the land in question was granted in several ownership out of the common tribe land; but if the right by descent were always traced back to the first acquirer, the extent to which collateral successions would exist must have been far wider than the text authorizes us in concluding it to have been. If we are right in our opinion that the general rule of all male descendants to a share in the inheritance ceased with the fourth generation, it follows that the members of the family who then acquired separate, not undivided shares, each became a new stirps for a fresh line of descendants.

When land has been granted out of the common tribe land in severalty, and as the property of an individual, if the inheritance become vacant by the failure of heirs to the grantee, the land thus left without an owner falls back into the general tribe land out of which it was taken. Whether in such a case it becomes the property of the chief, or of the members of the tribe, depends upon the question whether the chief has, as was ultimately in most European countries the case, succeeded in substituting himself for the general body of the members of the tribe as the representative of the State. That lands of inheritance, upon which no geilfine system had been established, did so revert, is proved by the special rule relative to extern inheritance in the case of a fully organized "*fine*," in which latter case the geilfine division were entitled to a succession, in the nature of an escheat, in vacant inheritances. This we take to be the meaning of the passage in page 285:—"The geilfine extends

to five persons, and it is they that get the *dibadh* of every kindred chief who leaves '*dibadh*' property." The phrase "who leaves" is glossed "who becomes extinct of." The geilfine division are here described as five co-existing persons, who take jointly an inheritance under certain circumstances. There would be no necessity for the observation, if the "dibadh" property in question passed to them as those primarily entitled to the succession; their right to succeed is a privilege connected with their official or local position as the five men of the geilfine division. The property in question cannot have been the "dibadh" property of any of the seventeen men, for it would then have survived to the men of the division of the deceased. This implies that the five men of the "*geilfine*" division represent the entire "*fine*" for the purpose of receiving successions, as they represent the community in being ultimately liable in certain cases for the wrong committed by the members of the "*fine*." If an allotment made to a member of the "*fine*," other than the seventeen men, became vacant by failure of heirs, the land fell not into the common property of the "fine," but became the exclusive property of the five men. If brothers, however, take a succession next to the sons of a deceased, this rule could not (subject to the exception subsequently noticed) apply until the "geilfine" system had been completed, and the land divided among the members, because every member of the "*fine*" must in that case have left a brother or nephews surviving him, except a sixth or younger son of the first *geilfine* chief, and a son of such son, or a sixth or younger son of the second "*geilfine*" chief, &c. Successions so very rare as these could not be considered as in the nature of a privilege or the subject of a special rule, and, as up to the date of the final partition the "geilfine" chief is assumed to be the owner of the waste, there would be little object in such a regulation; but its meaning is evident if it implies that the fifth "geilfine" chief, and his four brothers, who jointly form the last and permanent "geilfine" division, continuing to represent the "*fine*" for the purpose of liability, continue also to repre-

sent it beneficially as entitled to the succession to vacant inheritances. Their position would in this case be very similar to that of the lord of a manor in the English law.

It is stated in the introduction to Mr. Curry's Lectures that the succession was at first to the sons or remoter male issue exclusively, but that ultimately the daughters became entitled if there were no sons.* Although the authorities cited to support this seem to the cases and rules dealing with *cruib* and *sliasta* land, there is no reason to doubt the general accuracy of the statement.

There are, undoubtedly, in the glosses to the first tract in this volume, indications that at the date of the glosses, daughters had succeeded in acquiring a right to succession upon the death of their brothers, and that the later lawyers altered the original text, by the introduction of words supposed to have been omitted, and thus corrected the law to make it accord with the later usage; thus, in the original text at page 39, line 23, there is the passage, "an extern branch stops it (*i.e.*, the property) if the five persons *of the geilfine-division* perish." This is glossed as follows—"and in this case there is no female heir." This gloss manifestly follows up that in page 41, line 24, referring to page 39, line 16, "all the *geilfine*-division have become extinct, and all the land is obtained by the daughter in right of her female 'coarb'-ship, or as I have to tell concerning the *dibadh*-land of the head (cino) to whom the land belonged, *i.e.*, the daughter; it is then the land is divided among the three tribes." The right of females to a succession would be manifestly suggested by the feudal law; the first English settlement was founded upon the assertion of this principle; and such a doctrine would be popular among the owners of land, naturally desirous to transmit their property to their female issue. The principle of female succession to lands other than *cruibh* and *sliasta*, does not exist in the original text, and appears as struggling into existence at the date of the latest commentators; such a theory of succession is in contradiction to the old conception of the household, and

* Manners and Customs, vol. I., p. clxx.

that it was repugnant to the opinions of the older school of lawyers is shown by the restrictions by which it was limited even in the case of *cruibh* and *sliasta* land.

The obvious objection in a system of tribe law to female succession is that it naturally leads to alienate the lands of the family, and by intermarriages with externs to transfer them to members of a foreign tribe. This difficulty arose in the days of Moses. Thus, on the petition of the daughters of Zelophedad, of the tribe of Manasseh, who had died in the wilderness, Moses laid down the rule that the daughters should succeed to their father's inheritance if there was no son;* but the objection to this rule was soon perceived and stated by the fathers of the family of Gilead, viz., "if they be married to any of the sons of the other tribes of the children of Israel, then shall their inheritance be taken away from the inheritance of our fathers, and be put to the inheritance of the tribe whereunto they are received; so shall it be taken from the lot of our inheritance."† The rule, as originally laid down, had to be modified by the annexed proviso, "every daughter that possesseth an inheritance in any tribe of the children of Israel, shall be wife unto one of the family of the tribe of her father, that the children of Israel may enjoy every man the inheritance of his father. Neither shall the inheritance remove from one tribe to another tribe, but every one of the tribes of the children of Israel shall keep himself to his own inheritance."‡

At whatever date female succession was established, it appears to have been subject to a restriction similar in effect to the later Mosaic rule. "A female heir is here *referred to* who has had the father's and the grandfather's land for a time, and though she should desire to give it to her sons, she shall not give it."§ The introduction of female succession to land is contemporary with the birth of the idea of absolute ownership, and fixes the date at which the idea of the family and tribe is finally broken up. Although the rule of female succession existed under the Brehon Law it may

* Num. 27, 1. † Id., ch. 36, 1. ‡ Id., v. 8.

§ Page 39, see gloss, p. 41, line 4.

be regarded as a proof of the late date of the author who asserts it as a rule, and must be rejected from any statement of the ancient law of succession.

The succession to the cruibh and sliasta land rested upon express contract, and this class of lands consisted of those which, to use a modern term, were settled upon the marriage of a daughter of the house; that this form of succession was considered as an infringement of the common right of the family is proved by the necessity of obtaining the consent of the *geilfine*-chief to the contract. The effect of this contract, it would appear, was to introduce the daughter into the class entitled to the succession upon the death of the father. It must be presumed that the daughter during her life was entitled to the possession, as in the Welsh law in analogous case it is stated, "her gwaddol constitutes her proprietorship if she abide by her kindred."* The succession of her children was, however, much restricted; if she were married to a native freeman, her sons would be themselves entitled to the rights of full members of the tribe and upon the obvious principle that they could not claim at once under and against the custom, they lost, for the general benefit of the family, two-thirds of the lands; if her sons were, through their father, "exiles and foreigners," *i.e.*, if they had no claim to any portion of the family land under the customary law, they were left in possession of the entire at the will of the family, "while they are doing good with it." If the only issue of the marriage were daughters, there appears to have been a question whether they were entitled to a succession. Their right to the land was established by a leading case decided by Brigh, probably the wife of the Brehon Sencha previously referred to,† and it would seem that the passage introduced in page 41, line 16, is intended to be a report of the judgment. The case is thus stated—"The mother had died, and left no son, and there are no sons, but daughters only And the daughters shall obtain all the land with obligation to perform service of attack and defence, or the half of it, without obligation to

* Ancient Laws, &c., of Wales, vol. 2, p. 607. † Page 17.

perform service of attack and defence; and there is power over them to compel them to restore the land after their time." Hence it would appear that they were bound to indemnify the tribe against loss by reason of their incapacity to serve, or to compound for this liability by surrender of half the land, as a tenant of a lease, perpetually renewable, may, upon obtaining a fee-farm grant, free his holding from future liability to rent by releasing to the landlord a proportionate part of the lands; and that the interest taken by the daughters was for their own lives, and upon their death the lands fell back into the common fund of land out of which it had been taken.

VI.

Judgments of Co-Tenancy.*

The subject of this tract may be more correctly described as the rules regulating the mode of the partition of lands held by joint tenants, and the rights which, upon the partition, arise between the owners of the several portions.

The composition of the tract is remarkably consecutive, and, from the author's point of view, logically developed. The commentary is unusually clear and intelligible, although in some instances explanations are introduced which anticipate, or are merely copied from, subsequent passages of the original text; thus the commentary in page 77 is identical with the text at page 113; and towards the end of the tract passages evidently taken from other writings are intro-

* The word translated in the text "co-tenancy" is translated by Dr. O'Donovan as "joint-tenancy." This is a very remarkable error not as to the meaning of the Irish word, but of its presumed English equivalent. The subject discussed in the tract is the rights arising between persons, who have ceased to be joint-tenants by a severance of their joint-tenancy, and become owners in severalty of their separate holdings. We have no English term expressing such a legal relation, and the words "co-tenancy" and "co-tenants" have been used as the nearest equivalent expression. The learned translators did not profess to be skilled in the terms of English law, but they grievously embarrassed their translations by the use of technical words which they could not be expected to understand. The present editors have carefully removed from the translation every English term, the use of which could lead only to a misconception of the original text.

duced, some of which are difficult to understand, and others directly contradict the leading principles laid down in the body of the work. A remarkable instance of the latter case occurs in page 147, from line 6 to line 19.

This tract does not apply to any process similar to the modern enclosure of a common. That the general tribeland or public pasture should be cut up into separate lots, and divided among the members of the tribe in absolute ownership, was foreign to the ideas of any early community, and the author, at the commencement of the tract, carefully points to the circumstances under which the relationship described by him as "co-tenancy" arose. "Whence does co-tenancy arise?" he asks; and to this question himself replies—"From several heirs." We are here reminded of the important statements referable to the land of the "*fine*" in pages 287 and 285, the former of which states that the land of a family was not at all divided, and the latter states that in certain circumstances the members of the *geilfine* organization divided among themselves the residue of the tribe land as dibadh land, and that thereupon the family relations ceased, and there was henceforth what was called a community of people. The partition of the lands need not be confined to the case of a "*fine*," but must be extended to the breaking up of any inheritance among several heirs, which, if the theory of the rules regulating the succession to land hereinbefore proposed be correct, necessarily took place on the completion of the fourth generation of the descendants of the founder of the household or first acquirer.

The author understands that the pre-existing rights, which depended upon joint ownership, are determined by the fact of the partition, and that the owners of the several lots must henceforth deal with each other individually, and that their mutual rights depend upon an agreement contemporary with the division of the lands. "The heirs, in the first place, partition their shares and their possessions, and each of them guards against the other of them, and each of them gives *a pledge of* indemnity to the other."* The re-

* Page 69

ciprocal rights between the adjoining and now independent owners, which are to be thus secured by mutual pledges, would in the civil or English law be inferred in the case of any adjoining owners, and the transaction takes the form of the mutual covenants, which are sometimes necessary, to meet peculiar circumstances, in our deeds of partition. It is, however, to be observed that the giving of the indemnity was not accompanied with any detail of the extent and nature of the indemnity itself, which was defined and explained by reference to the custom, and that the material pledge given and preserved was not the *corpus* out of which the compensation or damages was to be paid, but rather the evidence of the existence of a contract the nature of which was assumed. "Each cotenant shall place a pledge of *the value of* two 'screpulls' on one of the rack pins of each other's at the foot of the bed as *security* for the fulfilment of the *duties of* co-tenancy; and though he should not fulfil them, this is not the pledge that shall be forfeited for it, but the 'smacht'-fine which we have mentioned before, or sacks, or fines for man trespass according to the nature of the trespass, if trespass has taken place therefrom."* The subsequent relation of the parties is clearly expressed in the phrase —"the new custom avoids the security,"† meaning that the relations which had previously existed between the parties, arising by implication from their position as joint owners, had come to an end, and that their subsequent mutual rights rested upon the legal consequences of the interchange of pledges.

The several lots in the land to be divided having been ascertained, the duty of sufficiently fencing their respective shares fell upon the several parties. There are no rules given for the extent of fencing, which each several owner was to execute, and as each fence was common to two properties, it must in every case have been a matter of arrangement between the parties; but very specific directions are given as to to the size and materials of the fences to be erected. There are four kinds of fence specified; (1) a trench, corresponding with

* Page 75. † Page 74.

what is now usually called in Ireland a "ditch;" a trench with the earth dug out of it, piled on one side of it in the fashion of a wall or mount; the trench was to be three feet deep, three feet wide at the top, one at the bottom, and two at the middle. The mound corresponded with the form of the trench out of which it was excavated, being three feet in height, three feet wide at the base, and one foot at the top. (2) A stone wall of six feet in height, three feet wide at the base, and one at the summit: this was evidently a dry stone wall like those now common in the West of Ireland, because the only instrument specified as necessary for their erection is an iron bar, and there is no allusion to the use of mortar. (3 & 4) The other two kinds of fences, described as a "strong" or "close" fence, or a "*felmadh*" (otherwise a naked) fence, were of wood or timbers set together; the details of these are elaborately given, but must appear to the modern reader rather obscure. The former is thus described: "the top of the one tree shall be on the trunk of the other tree, and so as that the smallest sucking pig could not pass through it for its closeness, nor the ox pass over it for its height." The latter class of fence was not of so substantial a nature. "The naked fence should be thus *made; the length of* a foot to the articulation (*or separation*) of the big toe is to be between every two stakes, and six feet in its height, or twelve hands, if it be measured by hands; and three bands of interwoven twigs upon it, a band on it at the bottom, another in the middle, and another at the top, and a certain space between every two bands; and a hand is the length of the pole (*the interweaving*) from that out, and a blackthorn crest upon it at the top; and every stake should be flattened at top by three blows struck on its head, after being first thrust *by the hand in the ground* as *well as* you can."* The nature of the fence depended upon the nature of the place in which it was to be erected, which is thus explained—"a trench or a stone wall in the plain; and the naked fence in the half plain, and the close fence in the

* Page 77.

wood."* It appears from this that the right of separate ownership was not confined to arable or even grazing lands, but in some cases included what would have been expected to have formed portion of the waste of the tribe; this separate ownership of forest accounts for what would be otherwise difficult to understand, the liability of owners of lands for trespasses committed by wild animals.† The constant and regular attendance of all the parties engaged in the fencing was attempted to be secured by the very *naif* rule; "each of them shall give his victuals into the hand of the other at night, that he may remember to come in the morning to his share of the cotenancy *work*; and the victuals of the person that will not come may be safely used, and if the victuals of any of them be used, he shall pay fine for overuse."‡

The whole theory of the damages paid in respect of the most usual form of trespass, the trespass of a neighbour's cattle, was calculated after the usual Brehon fashion, every possible form and incident of the trespass being introduced, as an arithmetical quantity, influencing the ultimate result. In a passage in a later portion of the tract§ the actual amount of damage done is suggested as the basis to calculate the sum of the compensation to be paid. "A worthy neighbour is brought to appraise the trespass, and grass of equal value is *given* at the decision of the neighbours;" this matter-of-fact mode of estimating the damage was probably considered unscientific by our author who proceeds to lay down every possible element in estimating compensation, and to annex to each a fixed value. These distinctions, if stated at length, would occupy much space; and the actual amount payable in respect of any supposed trespass, or the possible number of results which might be produced by varying the elements of the calculation, is of little practical importance. This desire to reduce matters necessarily fluctuating to certain results, this wholly misapplied pretension to arithmetical accuracy, was the essential vice of the Brehon law, and the glory of

* Page 77. † Page 121. ‡ Page 77. § Page 147.

its professors; the working of this system was so fully explained in the introduction to the last volume, that it is unnecessary here to recapitulate it, and it is not needful on the present occasion to do more than to summarize what were the chief elements in their calculations upon this subject. The personal responsibility of the defendant, either by wilful acts or culpable negligence, divided all trespasses into "man" trespass, and ordinary or "cattle" trespass. The extent of the trespass, whether the cattle had merely run in and upon the lands, or walked about thereon and eaten the verdure and crop; or had spent some time there not only eating but lying down, was also defined; and technical names were given to these species of trespass, viz., "tairsce," "airlim," and "feis;" and the proportion of damages payable in respect of each fixed, as so constantly occurs in these calculations, in the geometrical ratio of two.* The time at which the trespass took place, whether by day or night, had to be taken into account; the former involving twice the compensation of the latter. The season of the year could not be overlooked; we are told, "that the year is divided into two parts for regulating '*smacht*'-fines, for the '*smacht*'-fines of each quarter are not alike, *because* it is difficult *to regulate* the '*smacht*'-fines of the winter season, and of the spring cold, for saved provisions are more precious than growing grass."† The nature of the crop upon the land was obviously the principal element in the damage; the questions of the existence or sufficiency of the fence, the period of the duration of the trespass, the number of cattle which trespassed, the number of gaps they crossed the fence, all affected the result in fixed ratios. As a specimen the

* See the calculation as to the extent of the precinct, *post*, page 227.

† Page 79. The division of the year, stated in the text, into two unequal parts, viz., the summer period comprising five months, being the last month of spring, the three months of summer, and the first month of autumn, and the winter period comprising the last two months of autumn, the three months of winter, and the first two months of spring, was made, in the opinion of Dr. O'Donovan, with the object solely of regulating the price of grazing lands.

"That the Pagan Irish divided the year into four quarters is quite evident from the terms *Earrach*, *Samhradh*, *Foghmhar*, and *Grimhridh*, which are undoubtedly ancient Irish words, not derived from the Latin through Christianity; and that

following rules may be taken, as to cases really simple, and involving only four of the above elements. "Four sacks *are due* for *feis* trespass in a winter grass field over a full fence, two sacks for '*airlim*'-trespass, and a sack for '*tairsce*'-trespass. If it be trespass upon a pastured field of winter grass land, or upon an inclosed field of winter mountain land, or winter wood, or an old winter milking place, or into an inclosed field of summer grass land, two sacks are due for '*feis*'-trespass, and a sack for 'airlim'-trespass, and half a sack for 'tairsce'-trespass. If *it be trespass* upon a pastured field of winter mountain, or winter wood, or an old winter milking place, or a pastured field of summer grass land, or into an inclosed field of summer mountain or summer wood, a sack *is due* for '*feis*'-trespass, half a sack for *airlim* trespass, *and* a quarter of a sack for '*tairsce*'-trespass. If *it be trespass* upon a pastured field of summer mountain, or summer wood, or summer old milking place, half a sack is due for '*feis*'-trespass, and a quarter of a sack for 'airlim' trespass, and the eighth of a sack for 'tairsce'-trespass. The eighth of the eighth *is the fine* upon every trespassing animal, for every beast is a trespasser in a co-tenancy. For the 'tairsce'-trespass of one animal upon a pastured field of summer mountain pasture, whatever *animal* commits it, the sixth part of the half of one sack is due,"* &c. The liability for the trespass is very clearly based upon the neglect of the owner, as appears from the exceptions, viz., the cattle being driven over by a man or dog; or straying in consequence of heat or fear, or owing to any kind of violence; but these exceptions very properly extend only to "airlim" trespass, for if the cattle be left on the land to

each of these began with a stated day, three of which days are still known, namely, *Bealltaine*, otherwise called *Ceideamhain*, or beginning of summer, when they lighted the fires at *Uisnach* at the beginning of *Samhradh; Lughnasadh*, the games of Lughaidh Lamh-fhada, which commenced at Taillte on the first day of *Foghmhar*, the harvest; and *Samhain, i.e., Samh-fhuin*, or summer end, when they lighted the fires at Tlachtgha.

Introduction to the "Book of Rights," p. liii., but see the gloss which Dr. O'Donovan himself cites in the subsequent page.

* Page 81.

eat and lie down, there is neglect on the part of the owner, and the trespass becomes "feis"-trespass.

In the case of lands not in cultivation or grass the fine for trespass takes a pecuniary form; thus in the case of the church of a "nemadh" person it is stated to be an ounce of silver, and the estimation of the amount is combined with the number of eighty-four cattle, in a manner which is far from clear; in the case of a king's dun fort, or a churchyard there is no money fine fixed but "every hole made in the place is to be filled up with eric-sod and the place pressed, stamped and levelled.*

The trespass of horses involved a different question from that of cattle; the mere halting of travellers on their road could scarcely be considered in the light of a wrong, and at the same time an entry with horses upon land might result in an action for the recovery of the premises, and it was the duty of all the members of the tribe or family to prevent thus, in an indirect manner, the institution of legal proceedings. Hence arose the two forms of horse-trespass, technically known as "*fothla*" and "*tothla*" trespass. The former arose when travellers unharnessed their horses upon the land of an absent man, and asked a neighbour accidentally present where they had unharnessed their horses; it was the neighbour's duty to tell them that the land was the private property of the absent owner, and to warn them off, whereupon if they did not leave the place they were liable for the trespasses of their horses; on the other hand if the neighbour saw them with the bridles in their hands, as if in the act of making a legal entry in assertion of a right of ownership, he was bound to question them as to their object, and in default of so doing, became himself liable for the trespass, if the strangers were ignorant that they were intruding upon a separate property. The second case arose if unknown strangers unyoked their horses in the land of a separate owner, and the neighbour, accidentally present, either expressly informed them, or by his silence permitted them to believe, that they were not committing a trespass,

* Page 87.

in which case he was himself personally liable for the damages. This passage would lead to the conclusion that the elaborate fences, directed in this tract to be erected about the lands allotted in severalty, very frequently, if not ordinarily, had no existence.

The trespasses of swine naturally were the subject of customary rules; "if they eat the grass they are trespassers like other grazing cattle. If they root up the land, other land shall be given until proof of the restoration of the land is completed; that is until two horses in yoke are brought and left there, and it is seen that no part of the earth stick to their teeth while grazing it."* The damages for the trespass of swine were of course fixed with reference to the supposed size and age of the pigs, but in a preceding passage reference is made to an old and purely fanciful rule that the hole made by the pigs should be filled up with corn and butter; if such a rule existed it must be referred to some religious origin.†

The young and troublesome pet pig, a constant source of mischief, was a subject of special rules; it was evidently regarded as the prime cause of breaches in the fence and the ringleader of the cattle in the homestead; "the young pig which first breaks *through the fence*, and shows the way to the herd, there is a '*smacht*' fine upon him equal to that of one animal. The second time that he goes, there is a '*smacht*' fine upon him equal to that of four animals, and compensation equal to that of two animals. The third time that he goes, there is compensation upon him equal to that of three animals, and a '*smacht*' fine equal to that of seven animals. The fourth time that he goes, there is a '*smacht*' fine upon him equal to that upon the whole flock, and compensation equal to that upon four animals."‡

The rules having been fixed as to ordinary trespasses, our author proceeds to discuss what must be considered as purely imaginary cases; it is difficult to see where the rules of practical importance end, and where merely legal speculations, and vain distinctions and discussions commence;

* Page 97. † Page 99. ‡ Page 109.

but when the amount of "smacht" fine and compensation for the trespasses of pet herons, hens, pet deer, pet wolves, pet old birds (hawks), pet foxes, and bees becomes the subject of quasi-serious discussion we surely have left the regions of practicality behind, and are witnesses of useless displays of pure dialectic subtility.

As to bees it is very naturally remarked that their owner cannot prevent their leaving his premises and flying into those of his neighbour, "for they are swift, and there is no restraint upon them, and because they do not fly all together;"* in this case the owner was not guilty of a wrong as incident to their trespasses, and therefore there was no '*smacht*'-fine payable in respect of it, but merely compensation. The only occasion upon which the bees of a neighbour can be understood to commit trespass is when they swarm into the adjoining land; the sole injury incident to this trespass is occupation by the swarm of some infinitesimal portion of the neighbour's land, and the trespass involves its own compensation, for the swarm fix their nest and make their honey on the spot they thus wrongfully occupy. Thus the compensation for this trespass resolves itself into a joint ownership of the honey produced by the swarm:— "How is the fine of their produce paid? At the time of smothering the bees, the man who sues makes a seizure of that honey, and it goes into the keeping of safe hands, and it is afterwards submitted to award. The decision which is right to make afterwards concerning it is to divide the honey between them into three parts, i.e., a third for attendance, and a third for the bees, and a third for the owner of the land. And the third *allotted* for the land is itself divided into three parts, *i.e.* a third is given to the man who owns the bees on account of the land from which they come, the other two thirds are divided between the four nearest farms, *i.e.* where the food is. If this distribution of it every year shall be deemed tiresome, each nearest farm takes a swarm."

This passage affords us a means of understanding the

* Page 105.

manner in which these Brehon tracts are composed. The whole question of bees is discussed in a subsequent tract in this volume, and, upon a comparison of these rules with the latter tract, it is evident that there were subsisting certain simple well-known customs as to swarms of bees, and that each author simply uses the subject-matter as a means of displaying his dialectic powers in the elaboration of rights and rules which never were attended to or expected to be observed.

The question of the bees having been dismissed, the next which is discussed at great length is that of hens. The trespasses of hens may involve negligence on the part of the owner, for by proper rag-boots fowl may be restrained from wandering; the absence therefore of rag-boots bring hen trespasses within the class of man-trespasses, as resulting directly from the negligence of their owner, and consequently within a higher scale of damages. Great ingenuity was displayed in classifying the nature of hen trespasses; first, the trespasses of a hen within a house, which are subdivided into three classes, viz., snatching away, spilling, and wasting, for which respectively different compensations were fixed; secondly, trespasses outside of the house in the garden, subdivided again into soft swallowing of bees, injuring roidh-plants, and injuring garlic; and further in such case arose the further questions whether the bird were a cock or a hen, and if the latter whether it were or were not barren. The inconsistent repetitions in the commentary relative to this case prove that it was a favourite subject of discussion in the schools.

The most extraordinary discussion is reserved for the case of dogs, the authors of which were certainly devoid of any sense of the ridiculous. The feeding of a dog naturally involves responsibility for its acts, but the dog trespass, which particularly attracts the notice of the author of the original tract is that involved in his depositing his ordure on the land of an adjoining owner. The commentator remarks that there are four trespasses of hounds, viz. man-trespass (*i.e.* trespasses against men), mangling of cattle,

breaking of dwellings, and committing nuisance on land. The three former he passes over without notice, and proceeds to consider the interesting questions which arise under the last head; "what is required by law is to remove the dog's ordure out of the ground as far as its juice is found, and it (*the ground*) is to be pressed and stamped upon with the heel, and fine clay of the same nature *is to be put there* as compensation. This is the test of reparation; that two horses of a chariot in yoke come there and graze there, and if no part of the sod of grass stick to their teeth in grazing on it *the reparation is complete.* And three times the size of the ordure *is due* for compensation, and its size of butter and its size of dough and its size of curds; and the part of them that is not obtained in the one is to be claimed in the other afterwards. And if it be in the presence of the owner that the hound has committed nuisance on the grass, a fine for man trespass shall be paid by him for it."*

Man-trespasses, properly so called, wrongful acts committed by the defendant himself in respect of the land of an adjoining owner, are divided into various classes, and described by specific technical names; but as no explanation is given of these terms, with the exception of "fothla" and "tothla" trespasses, it is impossible to explain the distinctions to which they refer.†

The subject of "man-trespass" is resumed at a subsequent page,‡ and treated of at considerable length and in the usual manner. The first wrongful act discussed is that of cutting down trees or underwood upon the land of another. The various species of trees and shrubs are divided by the original writer, and more in detail by his commentator, into various classes, founded upon some nobleness inherent in the trees themselves, and the extent to which the tree is injured forms of course an element in the calculation. The following extract is sufficient to illustrate these rules:— "For the cutting of trees or stripping them, full '*dire*' fine is paid for each, *i.e.*, a perfect compensation for the portion of them which is damaged, and five '*seds*' as '*dire*'-fine.

* Page 123. † Page 99. ‡ Page 147.

But all trees are not equally noble, for there are seven chieftain trees and seven common trees, and seven shrub trees, and seven bramble trees, and the '*dire*'-fine for each is different. The chieftain trees *are* oak, hazel, holly, ash, yew, pine, apple. The '*dire*'-fine of the oak; a cow-hide *is due* for *stripping off it* the barking for a pair of woman's shoes; and an ox-hide for the barking of a pair of man's shoes; and also to cover it until the test of its recovery is had, *i.e.*, smooth clay and cow-dung and new milk are to be put upon it until they extend two fingers beyond the wound *on both sides*, and half *fine* shall be for it until it is whole. For cutting the trunk a cow *is paid*, and five seds are its '*dire*'-fine. A *colpach*-heifer *is the fine* for their great arms, or for their small oaklings; a '*dairt*' heifer for their branches. The '*dire*' fine of every chieftain tree of them is such."*

The only class of man-trespass dealt with is the breaking down and passing through a fence† (the English trespass *quâre clausum fregit*). As to this, distinctions are drawn having reference to the extent of the breach and the status of the wrongdoer, and in the latter case the compensation to be paid by the native freeman in every case is double of that payable by a stranger, probably because the payment of compensation arises from an implied contract, and is not founded in theory upon the tort.

There are four exceptional cases in which it was justifiable to make gaps or breaches in private fences:—(1) a breach before the hosts, which is glossed to mean "in flying before an host," but which reference seems rather to mean "to permit the advance of the host"; (2) before provisions, glossed "of the host," which would mean, for the purpose of bringing up supplies to the host; in both these cases the host must mean the armed array of the inhabitants of the district in which the fence is situated; (3) for the passage of chieftains "if they had found no other passage," and (4) for the conveyance of materials for the

* Page 149. See the notes appended to the text as to the meaning of this difficult and obscure passage,

† Page 153

erection of any of the following buildings, (*a*) a mill, (*b*) an oratory, (*c*) a shrine, and (*d*) a king's dun fort.

The principle of a right of way of necessity is clearly stated; such rights must have immediately come into existence upon the division of joint tenancies into separate lots; this right is however fenced in with peculiar restrictions which prove the exclusive possession by its owner of the servient tenement, and the anxiety of proprietors to prevent the acquisition by their neighbours of easements by continued user; "There is one stay (*quere*, restriction on full enjoyment, or easement) which every co-tenant is entitled to from the other, *i.e. in* a land without an opening, without a road, without a way; he is entitled to full passage over every co-tenant's land that is next to him, but the manner in which he is bound *to pass* is *with* six persons about him, three persons from the owner of the land, and three persons from the man who seeks the passage *shall attend* to keep them (*the cattle*) close to the fence in order that they may not spread over the land. If he has a way, this may be omitted; if there be two mounds to it, or two stone walls, he is restrained by them, for they are witnesses."*

The liabilities or duties annexed to lands held in several ownership are expressly laid down in this tract; this subject has been already noticed with reference to the rights of women to land, but the enumeration in the following passage is worthy of a reference:—

"The liabilities of land now, *i.e.*, service of attack and defence against wolves and pirates, and *attendance* to the law of the territory, both as to the hosting and feeding and service of defence."

"The liabilities as regards roads, *i.e.*, a fence *is required* for it alone, and *it is necessary* to cut them and cleanse them, and remove their weeds and mire in time of war and of a fair; and because it is expected that each should assist the other.†

Very interesting information is given incidentally in the commentary on this tract, which proves the existence

* Page 157. † Page 145.

at the date of its composition of tenants in the modern sense of the term, holding land for periods either fixed or uncertain, and paying rent in kind. The details as to this mode of land arise incidentally from the discussion of the liabilities and rights of the owner of a several lot, who is absent at the date of the partition and as a necessary consequence does not erect the fences between his portion and those of the adjoining owners, or who leaves the district to escape the fulfilment of his duties in this respect. In such a case the two adjoining owners would have no complete fence to their portions, as far as they meared the lot of the absent man, and his abandoned lot would lie between them, enabling their cattle to trespass across upon their respective holdings. In such case the adjoining owners can distrain upon his property, if he has any, until he makes the fence; if he has no property they can distrain the "next of kin to him of his family," until they fulfil his duties on his behalf. This is explained in the commentary as follows:—"Let them distrain his family until they fence their brother's land,"* showing that the liability would fall on the members of the household to which the absent man had previously belonged. If his family were unwilling to fulfil this obligation, they could escape it by conceding the right of grazing the land to the two adjoining proprietors, who in consideration of the year's grass themselves complete the fencing of the land, and occupy the derelict lot with their cattle in equal proportions. If the absent man return in the course of the year, and find that, his family having refused to fulfil his duties on his behalf, his lands are in the possession of his neighbours, he was held to have a claim upon his family, who by their failure to perform their duties to him had caused him to be temporarily left without home or farm. His rights under these circumstances against his family are explained in the following rather obscure passage:—"If the deserter has come *from* outside *into the territory* after this, his family shall give him land during the term of the hire (lit. loan), and they shall obtain the hire, and the part of his farm-buildings which

* Page 131.

he may have found on his coming back shall be obtained by the deserter. If his family have land, and they give not *of it* to him, the hire is to be obtained by those *who are* outside, and the portion of the erections which the law has not declared forfeited, the family shall purchase for him. If the family had no land at all, they equally divide the hire between the time and the labour, and he himself purchases the portion of the erections which the law has not confiscated. If the family have land, and he would not accept of it, the hire shall be divided equally between time and labour, and he shall obtain no portion of the erections."* The explanation which we suggest for this passage (the general meaning of which is not obscure) is that notwithstanding the division of the land in several lots, there still survived certain obligations among the members of the several houses, both towards third parties, and *inter sese*, to aid in carrying out the works incidental to a partition, and therefore if the family failed to fulfil their duty to an absent member, and permitted the adjoining owners, in consideration of fencing the land, to occupy it for a year, they were bound specifically to compensate the owner on his return for the temporary loss of his holding. If the word translated "hire" is taken in the double sense as meaning both a "letting," and the "subject-matter of the letting," the rules may be read thus:—

A. On his return his family must provide an equivalent in land during the residue of the year; his family shall be entitled to receive from him the letting value of the land, and at the end of the year he shall be entitled to whatever "improvements" shall have been made by him on the portion of land so allotted to him.

B (1). If his family have land of their own and do not allot to him an equivalent therein during the residue of the year, land must be procured for him from a third party during the period, and his family pay the rent of it for him, and all the "improvements" which he shall have effected on the land at the end of the year must be purchased by the family for him.

* Page 131.

(2). If the family have no land, they must give him in time and labour an equivalent to the value of his land during the residue of the year, and he must in this case himself buy in what in the preceding case the family were bound to purchase for him.

(3). If his family offer him a compensation out of their lands, and he refuse it, they are bound to compensate him in time and labour equivalent to the value of the land for the residue of the year, and he loses all right to the improvements.*

The difficulty in understanding this passage arises specially from the mode in which the rights of third parties are made apparently to depend upon the dealings between the owner and his family and as was before stated this explanation is very uncertain and not perhaps more than conjectural in its details.†

Some commentator upon this passage, fortunately for us, has had his attention directed to the question as to the rights to the "erections" upon the land, and not very logically proceeds to explain the rules on this subject as between landlords and tenants in the modern sense of the term. From this passage we conclude that there were two modes of letting land, viz., for an indefinite term, and for a fixed period, but that in both cases the lessor could resume possession, and that the fact of the period of the holding being ascertained bound the tenant and not the landlord. The terms "with necessity" and "without necessity" in this passage, applied to the act of either landlord or tenant in determining the tenancy, are the same as are used in reference to wrongful acts in the other portions of these laws, and in such passages they have been translated as "intentional" and "unintentional;" the meaning of the word "necessary" as qualifying an act may be taken to be

* See the explanation of this passage given at page 135.

† The subsequent commentator sees the difficulty of explaining these rules and suggests the following key to their meaning, viz:—"It is the land of another man that he has in this case let out on hire" (p. 135); that is, that when the family procure land from a third party for the use of a "deserter" they occupy the double position of tenant and landlord.

that the act in question was the natural result of the circumstances in which the person who did it was then placed; thus a "killing with necessity" would include justifiable homicide or manslaughter, and a "killing without necessity" would be equivalent to our term murder, meaning the slaying of another wrongfully and "with malice aforethought;" the best translation of these terms in relation to the determination of a tenancy would seem to be "reasonably" and "unreasonably," a qualification of an act not very logical, and probably expressing the general opinion of the neighbourhood upon the moral aspect of the transaction.

The rules laid down on this subject are as follows:—

A. If the letting be for an uncertain period, in all cases the tenant, if he determine the tenancy, leaves the erections behind him; but if the landlord determine the tenancy for any reason whatsoever, the tenant may carry away the erections with him.

B (1). If the letting be for a term certain, on the expiration of the term, the tenant must leave the erections behind him.

(2). If the tenant determine (surrender) the tenancy for reasonable cause, the value of his erections is apportioned between (having reference to) "time and labour;" but, if without reasonable cause, he must leave them behind.

(3). If the landlord, even on the last day, unreasonably determine the tenancy, the tenant may remove his erections; but if reasonably, there is a division of their value having reference to time and labour.

C. If the lands have been let for agricultural purposes, with an agreement to manure and dung them, and a period has been fixed for the determination of the tenancy, the case follows the ordinary rule; but if no period has been fixed, it shall, nevertheless, be considered as a tenancy for a fixed period—such period to be ascertained by the award of "the neighbours;" the grounds upon which it would proceed may be gathered from the commentary, at page 137. "If he has specified no particular time between them at all, the land shall belong to the 'man without' (*i.e.*, the tenant, as con-

trasted with the owner), until the time of his manure or dung has been taken out of it."

D. If the letting be for grazing, and "for forming erections" (with a covenant to erect buildings), the rent is "one-third of every animal on which there is increase;" but if for grazing only, every seventh cow is left for payment of the rent, but the tenant is allowed for every seven cows to pasture without further payment, in addition to every seven cows, as many sheep as were considered the equivalent of a cow.

E. If the tenant has agreed not to break up the land, and has ploughed it in violation of his agreement, the "tillage and seed" are forfeited, and he pays five "*seds*" as damages; but he can always break up the land if there was no agreement to the contrary.

F. Farm buildings found upon the land by the tenant, are, at the determination of the tenancy, to be treated as having been erected by him.*

Some information as to the rent of land may be obtained

* Page 133. These equitable doctrines applied only to free contractual tenants. The unfree customary tenants were very differently treated.

"The free tributes, as I have heard,
Are they which we have above mentioned;
Of the noble tribes these are due,
Who are upon lands external [to the mensal lands].
"The unfree tribes,—a condition not oppressive,
They are in his [the king's] own lands;
Servile rent by them, it is the truth,
Is to be supplied to the palaces of the chief king.
"The tribute which is due of these
[Is] is of fire bote and wood;
[also] the renewing of his cloaks, constant the practice,
A tribute in washing and in cleaning.
"This is due of the best part of them
Run and purple of fine strength,
Red thread, white wool, I will not conceal it,
Yellow blaan and binnean.
"*From the unfree tribes of ignoble countenance,*
Who fly with the rent from the land,
Twice as much is due
As they had carried off from their fatherland."

Book of Rights," p. 223–4.

from an earlier passage in this tract dealing with the mode in which land-trespasses are estimated; the answer which it gives to this question is as follows:—"From its rents; if it be winter grass that is injured, two-thirds of its rent is *the fine for* the trespass; if summer grass, it, the fine, is one-third."* On this passage the gloss says:—"Two-thirds of the fair rent, *or price* that is *paid* for its 'feis'-trespass and 'airlim'-trespass is what is *paid* for its 'airlim'-trespass only, for it is four sacks that are *paid* for its 'feis'-trespass, and two sacks for its 'airlim'-trespass. Two-thirds of the rent which is *paid* for a "Tir-Cumhaile" of the best land to the end of three quarters *of a year* is what is due for 'feis'-trespass in a meadow of winter grass-land over a full fence, *i.e.*, three 'screpalls' for the three quarters; *i.e.*, two 'screpalls' for 'feis'-trespass in winter, and one 'screpall' for 'feis'-trespass in summer, and this is the third of the three 'screpalls.'†

Those who are desirous to work out questions of this nature, are referred to the Tract entitled "Divisions of Land," contained in this volume, in which the measures of land are explained, and the addition or diminution in the value of land produced by the presence or absence of various qualities.

The letting of land, as explained in this tract, was carried on upon essentially mercantile and equitable principles, and was wholly unconnected with any feudal tenure.

Sir H. S. Maine has successfully shown that the feudal relation of Lord and Vassal among the Irish (so far as it was developed) rested upon the hiring out to the less wealthy classes of cattle and not of land. The benefice which the tenant received as the consideration of his services, must have been of value, and not otherwise easily attainable; and Sir H. S. Maine therefore points out that in the earlier stages of society there was a superabundance of land in proportion to the amount of cattle available for cultivation and manure, and that what the vassal desired and obtained was not land to till or pasture his cattle upon, but cattle for the purpose of

* Page 97. † Page 97.

utilising his otherwise valueless lands. This tract, however, exhibits to us a condition of society altogether different from that in which the 'saer' and 'daer'-stock tenancy took their rise. We find tenants paying very substantial rent under grazing leases, tenants willing to expend money in "erections," and manuring their holdings, and also that the custom of tenants taking land for agricultural and grazing purpose, had existed sufficiently long for the development of a custom determining the duration and incidents of the tenancies, and the respective rights of landlord and tenant as to future and permanent improvements. The manifest inconsistency between cattle-tenure and the rules laid down in this tract on the relation of landlord and tenant, is one of the many proofs of the social changes which must have occurred between the date at which the older Celtic customs were in force, as being in accordance with, and springing from, the daily needs of an existing society, and the period when the latter and speculative commentaries were composed; and, therefore, of the impossibility of extracting any one uniform system of jurisprudence from the mass of Brehon Law Tracts of unknown authorship and uncertain date.

The contents of this tract are sufficient to put an end, once and for ever, to an assertion, which seems to have become an axiom adopted by all authors on Irish history and antiquities, and which has also gained considerable political notoriety, namely, that the ancient Irish had not attained to the idea of exclusive ownership in land, and that all the land, until the influence of English law prevailed, was considered as the joint property of the tribe or family. It is evident that the several and individual ownership of land was perfectly familiar to the Irish lawyers, and that the most advanced applications of this doctrine, such as hiring of land for limited periods and under specific covenants, and also the doctrine of servitudes, were not unknown. The question of importance upon this branch of Irish antiquities, is not whether several property in land was known to the Irish Brehons, but what was the proportion which, in the

historical period, the lands held by the body of the tribe bore to those appropriated to individual and separate owners.

In an introduction, such as the present, many interesting, although incidental, statements, which are of much antiquarian value, must necessarily be left unnoticed.

None of the Brehon tracts gives more complete materials for estimating the merits and demerits of the early Irish lawyers than does the present. This may be attributed to the fact that the work in question, being probably of a late date, contained few difficulties in its construction, or references to ancient and antiquated customs. The glosses prove that the subsequent commentator felt no difficulty in understanding the original text. The subject matter was also practical in its nature, and remarkably adapted for the mode in which the Brehon school dealt with legal subjects. In despite of a style singularly wearisome and confused, it is impossible not to observe that they have worked up into a consistent form a mass of local and varying customs; that they have laid hold of important legal principles, though in an uncertain and illogical fashion; and that in the selection of their rules they have exhibited an honest and equitable spirit; on the other hand, this tract illustrates their incapacity to arrive at legal abstract propositions, and the extreme indefiniteness or mistiness of expression to which they were habituated; their prevailing error of mistaking arithmetic conclusions for definite propositions; and, lastly, their predelection to wander away from the practical application of their rules into the discussion of imaginary and fantastic cases, which were elaborated in the nature of scholastic speculations. The wisdom, for which the Brehon lawyers obtained such undeserved credit, rested upon the feeblest, not the most important, portion of their work. The vulgar of the day may have listened with amazement and admiration to discussions as to the various liabilities of hens, or the trespasses of dogs; and most of their modern translators and students, confessedly ignorant of jurisprudence, seem to have been struck with astonishment at these dialectic performances; but the test of the merit of every

legal school is its success in the application of its scientific conclusions to the practical affairs of life. That the Brehon lawyers reduced the mass of customary rules into a tolerably definite form, and contrived to base their doctrines upon a foundation more or less logical, and that, although possessing no original jurisdiction, by the general equity of their decisions, they succeeded in establishing their judicial power, are merits which the cursory student of the present day, repelled by the form of their works, is perhaps too slow to admit.

VII.

Bee-Judgments.

The culture of bees in the middle ages possessed an importance which, in our modern days, it has altogether lost. Until the introduction of sugar into Western Europe at so cheap a rate as to admit of being considered an article of ordinary use, honey was largely employed as the only means of sweetening the food; and almost until our own days the consumption of wax for candle was very extensive. At whatever date the sugar-cane was first cultivated in Europe, (the western nations first became acquainted with it shortly after the date of the first crusade), the extensive use of this article in Ireland cannot have arisen before the introduction of West Indian sugar at the end of the 16th century, up to which date the cultivation of bees must have continued to be a matter of considerable importance in Ireland.

The importance of bee-culture in Ireland is proved by the well-known legend relative to their introduction into the island. This is printed in Colgan's "Acta Sanctorum," under the date of the 13th of February, the feast of St. Dominicus, or Modomnicus. As the book is not easily accessible, the passage is here transcribed:—"Narratur ibidem et aliud de ipso S. Modomnico seu Dominico miraculum vere prodigiosum, universæ patriæ continuâ veritate proficium, et perenni famâ viro sancto gloriosum. Traditur enim primus esse, qui vel apes absolute, vel

saltem certi generis apes in Hiberniam transvexerit; unde magna deinceps in illo regno, quâ ante caruit, apum et mellis abundantia remansit. Sed quia hæc periodus, ut fabulosa, a duræ cervicis hereticis irridetur, et quibusdem emunctæ naris Catholicis tanquam parum fundata minimé arrideat, placuit plures, eosque graves et vetustos, ejus producere testes. Cum S. Modomnicus, discipulus sancti Patris (S. Davidis) ad Heberniam reverteretur, et navem ad transfretandum ascenderet, ecce omnis multitudo apum terræ illius, unde exierat, consequens eum, in navi cum eo consedit. Ipse enim examinibus apum nutriendis atque servandis, diligentem curam de Patris David mandato dabat, ut indigentibus aliqua ciba suavioris oblectamenti ministraret. Discipulus vero nolens tanto beneficio fratres defraudare, iterum ad Patris presentiam rediit, sequente tamen eum turbâ apum, quæ ad alvearia propria prorexerunt. Cum secundo valefaceret fratribus, et viam suam carperet, ecce apes, ut prius, eum insequuntur; quod cum videret, iterum ad fratres revertitur; et similiter eum apes omnes concomitantur. Cum tertiâ vice hoc factum iterassent, et vir Dei nullatenus vellet eas a fratribus abducere, cum omnium fratrum benedictione et Patris David, licentiam transfretandi cum apibus accepit; apes quoque S. David benedicens, ait; terram, ad quam properatis, vestro abundet semine, nec unquam deficiat vestrum inibi semen vel germen: nostra autem civitas a vobis in perpetuum immunis, nec ultra semen vestrum in eâ exerescat. Quod usque in presens tempus completum esse cernimus; nam si aliunde in illam civitatem deferantur, nequâquam durare possunt. Hibernia autem insula, in quâ usque tunc apes vivere nequebant, postea magnâ mellis et apum fertilitate florebat. Quod enim ibi apes autea vivere nequebant, ex hoc colligitur, quod si pulveres vel lapilli de Hibernià inter apes aliarum terrarum projicerentur, fugientes tanquam nocivam devitabunt.

"Hujus historiæ veritatem confirmat nomen loci, quo apes illæ in Hiberniam derectæ primo collocatæ sunt, ab ipso eventu desumptum; is enim locus in regione Fingalliæ

sive comitatu Dubliniensi situs, *Lann-beachaire*, id est, Ecclesia Apiarii adpellatur, &c."*

The present tract must be considered as an exercise in which the question of the ownership of bees, their swarms, and their honey, is selected as a subject for dialectic subtility. From the passages in the preceding tract dealing with bee trespasses, and incidental passages in the present, it is evident that questions relating to the ownership of bees were, in the ordinary course of life, dealt with on much less refined principles than are here suggested; but the present tract is valuable as illustrating the modes of thought, and the logical abilities of the Irish lawyers. For the purpose of raising all possible questions as to ownership and possession, no subject could have been more ingeniously selected than that of the rights to bees and their produce; and upon this point some few observations are necessary.

The ownership of bees raises at once the question of what is meant by possession. This term is generally defined as expressing the simple notion of a physical capacity to deal with a thing as we like, to the exclusion of everybody else, and the possession continues, even without physical contact, if the physical force to retake the object can be reproduced at will.

The most remarkable illustrations of the legal conception of possession arise in the consideration of the possession of live animals. The animals which ordinarily exist in a domesticated state, such as cows and horses, hardly differ

* The good father, who deals so hardly with thick headed heretics and sceptical Catholics, is however himself embarrassed by evidence as to the existence of bees before the date of St. Modomnicus: "Quod autem in Hibernià ante sanctum hunc Dominicum natum apes et mella fuerint constat ex irrefragabili testimoniâ regulæ S. Ailbei, in quâ num. 37 ita legitur, 'cum sident ad mensam, adferantur herbæ, sive radices, aquâ lotæ in mundis scatellis; item poma, cervisia, et ex alveario mellis ad latitudinem pollicis, id est, aliquod favi.' S. autem Ailbeus floruit in Hibernià simul cum S. Patricio, et aliquot etiam annis ante ejus adventum, sive ante annum 431. Ad auctoritates S. Ængussii et aliorum qui dicunt S. Dominicum primum fuisse, qui apes in Hiberniam attulerat, dicendum hoc esse intelligendum *de certo genere apum*: sunt enim in Hibernià et domesticæ et silvestres, ac diversi coloris et generis apes; præcipuarum autem ex his genus et semen videtur S. Dominicus primus advexisse." (*Vitæ Sanctorum*, p. 328, n. 7–8.) The legend therefore affords no means of fixing the date of this tract.

from other property. Animals, on the other hand, which are in a wild state, are only in our possession so long as they are so completely in our power that we can immediately lay hold of them. The meaning of the distinction is, that the tame animal will naturally, and of itself, remain within the possession of the owner; the wild animal will as certainly attempt to escape, and will most probably succeed in doing so.

We do not possess the fish in a river, although the several right of fishing belongs to us; but we do possess fish when once they are placed in a receptacle, whence we can at any time take them. According to the civil law, the ownership of wild animals is founded upon the fact of capture, and exists only so far as they are actually or constructively in restraint. The Institutes are clear upon this point:—"Feræ igitur bestiæ, et volucres, et pisces, et omnia animalia, quæ mari, cælo, et terrâ nascuntur, simul atque *ab aliquo* capta fuerint, jure gentium statim illius esse incipiunt. Quod enim ante nullius est, id naturali ratione conceditur, *nec interest, feras bestias et volucres utrum in suo fundo quis capiat, an in alieno.*"*

The ownership of the *locus in quo* of the capture is here entirely excluded from the consideration of the vesting of ownership.

This law has been in England very considerably modified, by reason of the exclusive privileges generally conceded to owners of land. There is not the least difficulty in a man having possession of that of which he is not the owner, and it was consistent with the idea, which attaches to our word "close," to treat the person entitled to the possession of inclosed land as in possession of all the game which at any time happen to be there. It was, therefore, obviously correct to decide that, when a trespasser kills game upon the land in my possession, the game is mine. It is, however, very difficult to apply these principles to the case of bees; the hives, the honey in them, and the bees in the hives, are manifestly in the possession of the owner, but as to the bees

* Inst., Lib. ii., Tit. 1, De occupatione ferarum.

who fly away or swarm out, he has no means of identifying or recapturing them, unless by close and immediate pursuit; bees which leave the hive are in the same position as wild animals which escape from their cage. In the case of wild bees, according to the Roman Law, the owner of the soil would have neither property nor possession until he physically possessed himself of their nest and honey; in this latter case, according to the general principles of English law, the possessor of the land should have, in right of such possession, a possession in the bees and their nests upon his land, and he alone, by actually securing them, should become their owner. The trespasser who secured a swarm or bees' nest upon the land of another, had, under the civil law, both property and possession; under the English law he should have the possession, but the property should vest in the owner of the land. The law as to bees is thus laid down in the Roman law:—"Apium quoque fera natura est. Itaque apes, quæ in arbore tuâ censederint, antequam a te in alveo includantur, non magis tuæ intelliguntur esse, quam volucres, quæ in arbore tuâ nidum fecerint. Ideoque si alius eas incluserit dominus eorum erit. Favos quoque si quos effecerint, eximere quilibet potest. Plane integrâ re, si prævideris ingredientem fundum tuum, poteris cum jure prohibere ne ingrediatur. Examen quoque, quod ex alveo tuo exvolaverit, eousque intelligitur esse tuum, donec in conspectu tuo est, nec difficilis persecutio ejus est, alioquin occupantis est."*

Bracton, as might be expected, adopts the passage of the Institutes; but in quoting his authority, Blackstone adds the following observations:—"But it hath been also said that with us the only ownership in bees is *ratione soli*; and the charter of the forest, which allows every freeman to be entitled to the honey found within his own woods, affords great countenance to this doctrine, that a qualified property may be had in bees, on consideration of the property of the soil whereon they are found."†

* Inst., Lib. ii., Tit. 1, De apibus.

† Black. Com. B. II., P. II., Chap. 1.

The mode in which the ownership of bees, their honey, and their swarms, is discussed in the present tract, and the principles applied by its authors, are a very fair test of the extent to which the Brehon Lawyers were acquainted with, and influenced by, the Civil Law, of which the rule of ownership resting on possession was one of the primary doctrines.

The rights to the produce and swarms of a hive of bees upon the farm of any proprietor are, according to the theory of the authors of the present tract, founded upon an implied contract between him and the adjoining owners of land. The holding of the owner of the bees is assumed by them to be square, or at least four sided, and each of the sides to be meared by the lands of a distant owner. The bees are supposed to enter into and gather honey on the four adjoining farms, the owners of which, by reason of the sustenance thus afforded to the bees, acquire definite rights in their increase and produce. The unpractical nature of this treatise is shown by the fact that the author believed that bees did not breed, or throw off swarms, until the third year, and it is upon this assumption that their calculations are based. They allow the hive what is styled, "three years of exemption, one year for their production, one year 'while they are few,'" and the year of their breeding, which must mean the year of their first swarming. During this period the adjoining owners have no right to the swarms, but only to a certain definite proportion of the honey produced. Four vessels of different sizes are assumed as the measure of the quantity of the honey produced, and these vessels are themselves arranged by reference to the size of cattle at different periods of their growth, (1) the milch cow vessel, which when full a man of ordinary strength could raise to his knee, (2) a "*samhaisc*" heifer vessel, which a man could raise to his navel, (3) a "colpach" heifer vessel, which a man could raise as high as his loins (or waist), and (4) a "*dairt*" heifer vessel, which a man could raise over his head; the several proportions out of these respective quantities of honey to which the adjoining owners were (or per-

haps each of them was) entitled, was one-half, one-third, one-fourth, and one-fifth of an esera, or drinking cup; this was the amount fixed by the ordinary rule, but there were also contingent claims for a supply of honey in the case of an entertainment to a person of rank, or upon the occasion of sickness. The swarms of the third year must be assumed to have belonged to the owner of the hive, for upon the expiration of the three years, "the period of exemption," the four adjoining owners became each entitled to a swarm out of the hive. In the distribution of the swarms the author assumes that bees throw out three swarms in the year; the first assumed to be the best, the second swarm also of good quality, and a third inferior swarm, described as the "*meraighe*" swarm. Three only of the adjoining proprietors could get their swarm in the third year, and the fourth had to wait for the following season, when he was entitled to the first and best swarm of the year.

The lands in question were assumed to bear the same relation to each other as the divisions of the geilfine, and they were entitled to their swarms in a rotation founded upon the supposed relationship existing between these four classes. As the number of the geilfine divisions were four, and that of the lands, inclusive of the original farm, entitled to swarms, was five, the theory could not be completely carried out. The original farm, which obtained the swarm of the third year, must have been considered as the geilfine class;* the other lands were classed with reference to the proximity of the hive, and the degree to which the bees would, therefore, be supposed to resort to it for their honey; the nearest land was described as the "deirbfine" land; the next nearest must have been the "iarfine," and the third the "innfine." The remaining adjoining farm could not have had any name derived from the geilfine relation, but must have been introduced as a consequence of the assumption that the original farm was a square. That the original farm was the geilfine farm follows from the fact that the second was the deirbhfine, as otherwise the geilfine must have been postponed to

* See Gloss, page 178, line 22.

two remaining classes, or introduced after the deirbhfine; but the order of the four classes must be observed, which is a matter of importance in considering a passage in the next tract in this volume dealing with the rights to water.

The owners of the adjoining lands were bound to set a watch "in the bright times, when the bees send out a swarm," and, if a swarm escaped through their negligence, they "shall support the bees until the end of another year," that is, the further distribution of swarms was adjourned to the next season. The case of swarms, which were not allotted to, and taken possession of by, one of the four adjoining owners, is next discussed; if a swarm, not the property of one of the adjoining owners, swarmed within the farm of the owner of the hive, no question could arise; a rule determining the ownership of a swarm could only arise, when it had left the farm of the original owner, and settled upon the lands of a third party. For the purpose of deciding this question our author refers to the analogous case of the rights to the fruit of a tree, belonging to one person, but planted in and growing out of the land of another.* Such a question is foreign to any European system of law, but it frequently arises in the Courts of Ceylon, where not only the owners of the tree are different, but even the tree and its produce are held by many persons in joint, and necessarily undivided, ownership. It is easy to understand how such a question might arise in a country such as Ceylon, where a farm used for the cultivation of large trees, such as a cocoa-nut plantation or mango-grove, has, in the course of several generations, been split up into innumerable shares among the descendants of the original proprietor, but, considering the small size and insignificant value of the fruit trees in Ireland at the date of this tract, and the abundance of land, it is difficult to believe that the case is aught but imaginary, unless we assume the existence of the letting of land for garden purposes, with a customary rent reserved out of the produce.

The general rule on this subject was that the bottom (the land) was entitled to the fruit of the top (the tree) every

* Page 167. † Page 169.

fourth year, and that in the other three years it was divided into two parts between the respective owners; the text then refers to the contingency of bees swarming upon such a tree, and treats the swarm as if it were portion of the natural produce of the tree itself. The general rule as to such swarms of unclaimed bees is stated in the commentary thus:—"*It is* to the land out of which it (the tree) grows originally, that its produce belongs every fourth year; until (then ?) the produce of the bees is divided into two *parts* to the end of three years between the owner of the bottom of the tree and the owner of the top, and its produce every fourth year is due to the owner of the bottom, in the same way as the owner of the top gets the produce of the tree every fourth year, so the owner of the bottom of the trees obtains the produce of the bees every fourth year. This is when the original owner of the bees is not known."* This rule refers to the division of the ownership of a stray swarm between the owners of the land and of the tree. The rules as to swarms, the ownership of which was either admitted or asserted, is stated subsequently in the commentary, and it is to be remarked that in the decision of such questions, two additional elements are introduced, the greater or less certainty of the ownership of the swarm, and the rank of the owner of the tree.

(1.) "*As to* known bees in the trunk of the tree of a noble 'nemedh,' two-thirds *of their produce are due* to the owner of the tree, and one-third to the owner of the bees, to the end of three years, and they (*the bees*) are the property of the owner of the tree from that out.

(2.) "*As to* doubtful bees in the trunk of the tree of a noble 'nemedh,' three-quarters *of their produce are due* to the owner of the tree, and one-fourth to the *doubtful* owner of the bees, to the end of three years, and they belong to the owner of the tree from that out.

(3.) "*As to* the known bees in the top of the tree of a noble 'nemedh,' one-third *of their produce is due* to the

* P. 171. The punctuation of this passage has been altered from that in the text.

owner of the tree, and two-thirds to the owner of the bees, to the end of a year, and they belong *exclusively* to the original owner of the bees from that out.

(4.) "*As to* doubtful bees in the top of the tree of a noble 'nemedh,' one-half *of their produce is due* to the owner of the tree, and one half to the owner of the bees, to the end of a year, and they belong to the owner of the bees from that out; or, *according to others*, it is to the owner of the tree they belong.*

(5.) "*As to* known bees in the trunk of the tree of an humble 'nemedh,' one-half *of their produce is due* to the owner of the tree, and one-half to the owner of the bees, to the end of three years, and they belong to the owner of the tree from that out.

(6.) "*As to* doubtful bees in the trunk of the tree of an humble 'nemedh,' one-half their produce and one-eighth *go* to the owner of the tree, and one-half except, one-eighth to the owner of the bees, to the end of three years, and they are the property of the owner of the tree from that out."†

The two further rules which should correspond to rules 3 and 4, are omitted in this part of the commentary, but in a subsequent passage the further rule occurs ‡—"*As to* known bees in the top of the tree of an humble 'nemedh,' the fourth portion *of their produce* belongs to the owner of the tree, and three-fourths to the original owner of the bees, to the end of a year, and they are the property of the owner of the bees from that out."‡

There is a passage in the original text which puts the rights of the "nemedh"-person upon an entirely different footing, and classes a swarm of bees as one of the seven fugitives not entitled to the protection of his house, and therefore in this case the "nemedh"-person, being obliged to yield up the fugitives to the pursuing owner, receives but one-third of one year's produce as a gratuity. This passage is quite inconsistent with the rest of the text, and the detailed rules of the commentary, and proves how much of the

* This rule is variously given in page 189.
† Page 183. ‡ Page 189.

regulations laid down in this tract are purely dialectic, and what different conclusions may be arrived at by shifting the point of view from which the question is regarded.

The questions are then discussed which deal with the conflicting rights of the man who finds a stray swarm, and the owner of the land on which the swarm is found; these may be summarised as follows:—

(*a.*) If the swarm is found in a green, that is, the open grassland immediately surrounding an house, one-fourth of one year's produce to the finder, and three-fourths to the owner of the house.

(*b.*) If in a tree in a green, if the bees have been there a year, one-half to the finder, and one-half to the owner of the house.

(*c.*) If in the land between the green and the waste, one-third to the finder, and two-thirds to the owner of the land.

(*d.*) If in waste unappropriated land (land not separate private property), the finder takes all, subject to a claim by the chief, if it be public land of a lay-tribe, or by the church, if it be public land of a cleric-tribe to "one-third of every third."

The position of the "*daer*," and "*saer*"-tenants, and their personal connection with a superior, is marked by the rule that "*daer*"-tenants of a church give over to the church one-third of their finding; "*daer*"-tenants of a chief give to their chief one-third, except in the case of bees found in the waste land, and in that case one-ninth; the "*saer*"-tenant of the church gives over one-fourth, except in the case of bees found in the waste land, and in this case one-twelfth; the "*saer*"-tenant of a chief gives no portion to the chief. Two other subjects are discussed in the tract, but neither of them are of such importance as to deserve a special analysis. The first is with reference to injuries inflicted by bees. The mode in which this question is considered is much less detailed than in the text and commentary of the Book of Aicill, and the matter is referred to the judgement passed upon the occasion of the bleeding of Congal Caech; the passage referred to in the original text is as follows:—"It happened on a certain

day that I was left alone in the garden, without any one to take care of me, and the little bees of the garden rose up with the heat of the sun, and one of them put its poisonous venom in one of my eyes, so that my eye became awry, for which I have been named Congal Claen."* It may be reasonably conjectured that the tale of Congal Claen had rendered the question of damages arising from the sting of a bee a favourite subject for legal speculation.†

In the latter portion of the tract are considered the damages payable on account of the stealing of a hive, which only deserve notice as proving that property in the bees when confined in an artificial nest was recognised by these lawyers.

We are now in a position to consider the mode in which the ownership of bees, their honey, and their swarms, are discussed in the present treatise. What is most obvious is the absence of any general principle applicable to the consideration of the questions raised. The rights of adjoining owners are referred to a state of things purely imaginary, viz., the supposition that every farm is meared by four neighbouring farms, which are the nearest to the premises in question, an assumption geometrically impossible; the consideration of the rights of the parties standing in this impossible relation is then considered upon the assumption of a fact actually incorrect,

* The Battle of Magh Rath, p. 35.

† Ancient law-givers appear to have entertained serious apprehensions of the injuries which might be inflicted by bees, of which the following examples suffice:—

"Si quis apiaria in civitate, aut in villâ forsitan construxerit, et alii dampnum intulerit, statim moneatur, ut eas in abditis locis transferre debeat, ne forte in eodem loco hominibus aut animalibus dampnum inferrant. Et qui hæc præcepta aut testationem neglexerit, et dampnum suffocationis in quadrupedes intulerit, quod mortuum fuerit, duplum restituat: quod vero debilitatum, ille obtineat, et simile dampno reddat: et pro judicis contestatione, quam audire neglexit, v solidos coactus exsolvat."—"*Leges Wisegothornm*," Lib. viii., tet. vi., 2.

"Apes si occidunt hominem, ipsas quoque occidi festinanter oportet; mel tamen expendatur in medicinam et in aliis necessariis."—"*Theod.*," Pœn. xxxi., 18.

"Apes si occiderint hominem, statim occidantur, antequam ad mel perveniant, ita saltem ut non per noctem ibi restent; et mel quod fecerint comedatur."—"*Ecgb.*" Conf. 39.

"Apes si aliquem occiderint, statim occidantur, et mel quod antea fecerint e datur."—"*Ecgb.*' Pœn., Lib. iv., s. 37n.

viz., that bees do not swarm until the third year; and the distribution of their swarms is regulated by reference to the false analogy of the divisions of the family in such a manner as to involve an arithmetical error. In considering the ownership of swarms not included in the preceding rules, the author fails to grasp the clear rule of the civil law, that ownership depends upon the reduction into possession, and the equally clear principle of the English law that a trespasser cannot take any advantage arising from his own wrong. The mode in which our author proceeded was this:—he observed that on all such occasions a contest as to the ownership arose between certain definite parties, the finder of the bees, the original owner of the bees, and the owner of the land in which the bees had swarmed; he never applied any general principle to the rights of any of them, but finding them, or at least two of them, in conflict as to the ownership, he admitted that all had rights, and strove to regulate their rights in an arithmetical form. The analogy upon which he at first proceeded, that of a tree planted by one in the land of another, he after a time abandons, and the subsequent statements are referable to analogies, which he has not disclosed. There is an entire absence of any scientific mode of thought, but the account between the various parties is taken, having reference to the circumstances in the case, which would strike the mind of an unprofessional arbitrator when attempting to make up the quarrel on grounds calculated to satisfy the contending parties; however long and apparently elaborate the treatise may be, it does not, except in the detail and elaboration of its numerical calculations, rise over the level of ordinary ancient regulations upon the subject.

The Welsh law dealt with the subject in the same, though in a more prefunctory manner. "On whatever boundary a wild swarm is found, the law says that it is right for the owner to hew the tree on each side; and he on whose land the tree may fall, is to have the swarm;"* and again, "Whoever

* Ancient Laws of Wales, Vol. I., p. 97.

shall find a swarm of wild bees is to have a penny or the wax; and the owner of the land is to have the swarm."*

No clearer example can be desired of the essential difference between the Celtic mode of thought, apparently clear, yet really indefinite, when dealing with a practical question, and the hard and logical habits of thought of the Norman lawyers (who were equally ignorant of the civil law), than the following enactment of the Assise of Jerusalem upon the subject of bees:—"Sel avien che per aventura le ape che sonno nelle mie casse vanno fora, et restano in altrui casse de voluntà di esse, la rason vol ch'io non habbia action alcuna de andar a prenderle per forza de la casse d'altri; per che sonno ucelli salvatichi, per che tosto che le usciranno da le mie casse, io no hò piu signoria in quelle, se non tornano iterum ne le mie casse, et sonno mie mentre sonno in ditte mie casse, et non piu; la rason de simil ucelli e che vanno ogni zorno fora per viver de li beni de fora, et però quelli che li hanno chiusi in le sue casse sono sui patroni, mentre voranno stare, ò ritornare; ma se alcun vien al mio loco dove tegno le ape, et porta una cassa onta di dentro di qualche odore, per el quale intrano dentro tutte, o parte de le mie ape, et le porta via, la rason commanda che quel che farà questo sia tenuto di tornar indrieto le mie ape con tutto el frutto che haverà fatto, et poi esser condanato personalmente secondo che li judici stimaranno che valevan quelle ape, et che potevan lavorar per quel anno, et restituir altro tanto a la justitia de jure; et similimente se le mie ape fanno miel in altrui arbore, la rason judica ch'io non habbia alcuna rason, nè alcun altro del qual fosseno le ape, ma quello deve esser del patron del arbore; et questo è dì justitia, perche nessun non puo segnar le sue ape che non somegliono à le altre, et cosi come le viveno de li fiori, et beni d'altrui, cosi deve esser il miel di colui, nell' arbor, o terreni del quale voluntariamente vanno a farlo; parimente se le mie ape a far el suo miel a qualche arbore salvatico che non ha patron, la rason vole che cadauno possa prender di quel miel senza errare verso alcuno, perche è loco com-

* Ancient Laws of Wales, Vol. II., p. 289.

mune, dal quale de rason ogni homo puo pigliar, etiam le ape, et portarle, dove li piace senza errare, de jure, et per l'assisa de Hierusalem."*

It is impossible to believe that the author or authors of this tract and commentary (which has been manifestly altered from time to time, amended, and enlarged), had any acquaintance with the civil law, and it must be admitted that, in its present condition, it is a remarkable and most unfavourable specimen of the manner in which the Brehon teachers approved and discussed legal questions.

* Assise of Jerusalem, see 215. What is most remarkable in this section of the Assize of Jerusalem is the distinct manner in which actual possession is laid down as the only ground for the ownership of bees, and the clear argument upon which it is founded—viz., that the ownership consists in simply retaining them in actual possession, and is not founded upon any expenditure of labour and food in their maintenance. The doctrine of constructive possession which appears in the section of the Institutes is here disregarded, and thereby the difficulty is avoided which arises from the limitations of the constructive possession introduced into the Roman text, "Donec in conspectu est, nec difficilis persecutio ejus est." Also, when no actual reduction into possession has taken place, it is presumed to have been made by the owner of the soil, as no one else could enter upon his lands for the purpose; and the case of the bees being fraudulently induced to escape from the possession of their owner is anticipated and provided for. How difficult it was to form clear ideas as to this matter appears for other attempts at legislation upon this subject. Thus, in the laws of the Wisegoths was contained the following section:—

"Si quis apes in silvâ suâ, aut in rupibus, vel in saxo, aut in arboribus invenerit, faciat tres decurias, quæ vocantur caracteres; unde potius non per unum caracterem fraus nascatur. Et si quis contra hoc fecerit, atque alienum signatum invenerit et irruperit, duplum restituat illi cui fraus illata est, et præterea xx flagella suscipiat."—"*Leges Wisigothorum*," Lib. viii., sit. vi., 1.

The ownership is here founded upon the discovery simply of the swarm, and no reduction into actual possession was required; and the question whether the person who so found them was rightfully or not upon the place where the bees had swarmed is altogether overlooked.

In the present tract the Brehon lawyer has seen the two distinct grounds upon which the ownership might be founded, but has worked out logically neither train of ideas, and concluded by compromising both, with reference to a supposed analogous case, and in an arithmetical manner.

VIII.

Right of Water.

The subjects discussed in this treatise are neither riparian ownership of running water, nor servitudes connected with the use of water, but the right to conduct water courses for the construction of mills, and the right of the adjoining owners to use such mills, and to draw water from the mill course and pond. The Brehon lawyers permitted anyone desirous of constructing a mill to bring the necessary supply of water through the lands of his neighbours, and to acquire by compulsory purchase the ground necessary for the purpose upon the terms of paying a fixed legal compensation for the same. "Every co-tenant is bound to permit the other (co-tenants) to conduct drawn water across his border;"* and, "this is the second instance in the 'Berla' speech where the law commands a person to sell his land though he should not like to do so."† The process in question was a very archæic anticipation of the modern "Land Clauses Consolidation Act," specifying the terms upon which the necessary land may be purchased, the amount to be paid, the matters to be taken into consideration upon the occasion of the purchase, and the rights arising by implication of law in the work when completed. Certain lands, from their nature, could not be compulsorily acquired for the purpose of the erection of a mill, viz., the "nemed"-land of a church, or (2) of a dun, or (3) the circuit of a fair-green. The author understood that the right of acquiring land for a work of public utility must be restricted by rules which would prevent a disproportionate violation of private right, or an excessive inconvenience to the public itself. The amount of the purchase-money for the land to be taken was not, as may be easily anticipated, the subject of valuation, but was fixed in every case by a an express rule, and the price was not measured by reference to the extent taken, but the fact of the compulsory taking was to be compensated for as a quasi-tort. Thus, a "*sed*" of ten "serepalls" was payable for

* Page 213. † Page 215.

every farm through which the water course was carried; some variation in the price was, however, permitted, having reference to the nature and value of the land itself: "If it be arable land, though it (the water) should pass through only half a step of it, it shall be paid for after this manner (that is, the price shall be one "*sed*"); but if it be unprofitable land, half a "*sed*" is its price, otherwise it is a day *at the mill* for every land over which it passes that is due for it."*

Three classes of land are enumerated for which no compensation was payable, either on the ground that the owner of the land was benefited, not injured, by the construction of the water course, or because it was evident that he incurred no damage whatsoever; these are (1), "lands on which a mill stands, so that it yields produce," which is explained in the gloss as meaning the land used for the construction of the mill pond, which afforded to the owner of the land a constant and abundant supply of water, or, according to another commentator, of fish; (2), a house and close previously without a supply of water, and which, therefore, was benefited by the mill-stream being constructed close to it; and (3), a trench usually dry, and used only to carry off the winter drainage, the owner of which was obliged to permit its use without compensation.† It would have been fortunate for the English public if the equitable considerations which in the Brehon law deprived the owners of land taken for public works of any compensation, if the construction of these works resulted in a profit, not a loss, to the owners of the land required, had been taken into consideration by modern legislators. Whatever bargain or arrangement had been made by any owner of land in connexion with the construction of a mill, a dam, or a bridge, became absolutely binding if acquiesced in during the lives of two subsequent owners:‡ "If they have been so acknowledged, it is right that they should remain so for ever, gratis or for payment, according to the Brehon."§ This passage very fully expresses the archaic idea of ownership; the

* Page 213. † Page 215 ‡ Page 211. § Page 213.

owner was owner merely for the term of his own life, as between himself and his family he was in some sort only a tenant for life, whose contract as to the subject matter was not binding upon his successor. This idea of ownership is quite foreign to the English law, but is exactly what existed in the case of "substitutions" in the old French law, or in that of a Scotch tailzie. The English law has superadded to the power of dealing with property which is incidental to ownership, the conception of absolute ownership being perpetual in its duration, a fallacy which has exercised immense influence upon our real property law, and is the basis of our whole system of conveyancing. This rule also is an instance of the application of the principle of "limitation" of actions, which within only recent times has been recognized as of paramount importance in our jurisprudence. The period of limitation fixed by this rule is during the life of the father and grandfather of the person affected by it, and as the normal period of limitation in the Brehon laws is the space of three generations, a subject subsequently discussed, it may be reasonably concluded that the party who entered into the original agreement was the great grandfather of the person whose right to object to the transaction was barred, and that the father and grandfather had acquiesced in the acts of their predecessor. In a very obscure passage of the commentary we have an express statement that the period of limitation was such as we have mentioned, and the assertion that the period of limitation did not run as against a minor: "If they were recognized during the lives of three persons, they are lawful from that forth. But if the son of the third man did not acknowledge them jointly with his father, he being an infant, and in case he was so, they shall not be lawful, until he shall have acknowledged them, for the same period after he has come to the age of reason."* The only explanation which can be suggested for this passage is, that the acquiescence during the three continuous lives was not the simple acquiescence of the successive owners whose lives are taken into account

* Page 213.

in the computation of the time, but the acquiescence of their families during their successive lives; thus, if the owner (so called) had a son, both father and son must acquiesce during the life of the former, and the son, who was an infant at his father's death, having been unable during his infancy to do any act to bind his rights, was entitled after his father's death, and for the same period as he had lived as a minor during his father's life, to elect whether he would or would not confirm the acts of his father; and if he allowed this space of time to elapse without insisting that, by reason of his infancy, there had not been any legal acquiescence during his father's life, he was estopped from relying upon the fact of his infancy, and the imperfect acquiescence during the father's life was validated by reason of the retrospective effect of the son's subsequent acquiescence.

If the owners of the lands required for the construction of the race or pond preferred to take certain rights in connexion with the watercourse and the mill in lieu of pecuniary compensation, they were at liberty to do so.

Mr. O'Donovan has stated his opinion on this subject in his note, which is appended to page 220 of the text, but he does not appear to have realized the difficulty of applying the first paragraph of the text to the right to grind corn at the mill, or to have attempted to reconcile this passage with the very explicit and detailed statements of the commentator in page 217. The tract commences thus: "There is equal right to the water drawn through the tribe lands due to the lands out of which it is drawn."* What is the particular right dealt with in this passage? Does it refer to the right of grinding corn in the mill, or to some other right incident to the water course? and is the mode in which this right is to be exercised, or are the persons by whom it is to be exercised, compatible with such a supposition? The rights of the adjoining owners are regulated in reference to the geilfine system, and the lands are divided into four classes corresponding to the four geilfine divisions. Mr. O'Donovan describes this theoretical division of the land to have been as follows:—

* Page 209.

The land in which the mill-race was first turned off, "the course," was geilfine land; the land on both sides of the mill-race, down to the mill-pond, was deirbhfine land; the land surrounding the pond was iarfine land; and the land on both sides of the race, from the pond to the land, was the innfine land. It is clear in the text that the innfine-land was the pond itself in which the water was contained, and that the deirbfine land was somewhere between the source and the pond, and it is not certain that the author of the passage in the original text contemplated any water-course running from the pond down to the mill. It is quite true that the author of the commentary at page 217, divides the lands into four classes corresponding with Mr. O'Donovan's; but the question may be asked whether he is dealing with the same subject matter as the author of the first paragraph of the original text. The authors of the glosses evidently did not understand the distribution of the lands contemplated in the original texts; one gloss describes the deirbhfine land as the pond, and another apparently describes the pond as the iarfine land. But the patent objection to the first paragraph being considered as describing the rights of adjoining owners of land to grind their corn at the mill, is, that thereby there would be no surplus time left at the disposal of the owner of the mill house, whose rights could not well be excluded from consideration. The computation of time in this tract has reference to the working days of the week, and Sunday is kept out of the account as an holiday; if, therefore, each first day (*i. e.*, Monday) belong to the land out of which the water is drawn, and three days are allotted to the pond, and one day to each of the remaining classes, viz., the *deirbhfine* and *iar-fine* lands, the entire week would be divisible among the owners of the adjoining lands exclusively. This objection does not apply to the scheme regulating the mode of working such a mill contained in the commentary.* According to this rule the right to work the mill is divisible between six classes: (1) the well, (2) the owners of land from the well to the pond, (3) the pond, (4) the owners of land from

* Page 217.

the pond down, (5) the artizans, and (6) the attendance; 'one-third goes to the land, and the things which belong to it, and one-third to the science of the artizans, and one-third to food and rude labour." The two latter classes, the artizans and attendance, represent the proportion allotted to the owners of the mill, for capital invested and current expenditure; the rotation is arranged with reference to a period of three weeks, containing eighteen working days, distributed thus :—

	1st Week.	2nd Week.	3rd Week.
The Well, . .	Monday.	—	—
Well to Pond, .	—	Tuesday.	—
Pond, . . .	Tuesday.	Monday.	Monday.
Pond down, . .	—	—	Tuesday.
Artizans, . .	Wednesday and Thursday.	Wednesday and Thursday.	Wednesday and Thursday.
Attendance, .	Friday and Saturday.	Friday and Saturday.	Friday and Saturday.

It is clear that if the author of the first paragraph of the tract had considered the adjoining lands to have been divided upon this system, the pond should have been described, not as the *innfine*, but as the *iarfine* lands; and in one of the glosses we, in fact, find this correction made; if the pond was the *iarfine* lands, the two intermediate classes, viz. :—the *deirbhfine* and the *iarfine* lands must have been placed between the source of the water and the pond; and, as before remarked, we find in the first passage no allusion to any race from the pond to the mill. It may be suggested that the first passage refers, not to the right to use the mill, but to draw water from the mill-course and pond—a privilege perhaps not of much value in Ireland, but one which the Brehon lawyers, to whom the rule "*De minimis non curat lex*," was unknown, would not disregard in their calculations.

The present tract concludes with the following remarkable passage :—"There are seven ditches, according to the Feini, the injuries done by which are not paid for (though such should be done by them), for every person shall be corrected (restrained?) by his security, unless they have

been made free; the ditch of a 'dun'-fort, the ditch of a 'cill'-church, the ditch of a fair green, the ditch of a mill-race, the embankment of a mill-pond, the ditch of a turf bog (the hole caused by the cutting of turf), a ditch which is at a bridge; for, from this out (*i.e.*, with the exception of these specified cases), each one pays for the injury sued for, or caused by each ditch which one has made in his land, to him who has sustained the injury, for every surety shall be sued unless these exceptions have been established as regards water. It was thus that the common right to conducting water was established by the Feini."*

This passage states that ditches (or constructions of any kind) are divisible into two classes, viz.; those the owners of which are responsible for the accidents arising from their construction, and those the owners of which are exempt from damages in that respect; the reason why mill-courses fall within the latter and the former class, is stated in the gloss, viz.:—"They are erections, concerning the construction of which authors have laid down no defined mode of construction." All the ditches referred to are made in the exercise of legal right; and all, except the cutting of the bog, may be considered in some degree as public works; the cutting in the bog would be an exercise of a right in common land in the ordinary manner. Now the very principle of damages in the English law, which would be applicable to such cases, would be, that a person who had constructed any work of such a nature in the exercise of a legal right, and with due care and precaution, would not be liable for damages in respect of an injury which occurred to a third party, caused by the existence of the work in question, or the legitimate mode of using it. This is the point which was applied to Railway Companies, in the case of the King *v.* Pease, 4 B & Ad. 30; the question in such case is always one of negligence in the construction or using of the work. This appears to the point taken by the author of the gloss, viz.:—that there was no established rule regulating the mode in which the mill-course should be constructed—and that

* Page 221.

the construction being in itself legal, it was impossible to consider the mode of construction a ground for damages. The obvious mode of deciding the question by an issue of fact as to whether the construction in question was or was not properly constructed, and with all ordinary care, was a course which would not recommend itself to the Brehon lawyer accustomed to the use of distinct arithmetical formulæ. This passage is interesting, as illustrating how the Brehon law was taught; in any modern system the author would have laid down an abstract proposition, illustrated it by particular examples, and fortified it by previous decisions; and, thus having established his general proposition, would have applied it to the facts of the case, then the subject of consideration. The Brehon lawyer must have had in his mind, however vaguely, some abstract rule with reference to which he classified a number of individual cases; having made his classification, he then instructed his pupils by specifying the result of the analysis, without communicating the principle upon which it proceeded. It is this mode of dealing with legal questions, which, in the case of the Brehon law, creates such difficulty and obscurity. Their works are neither simple statements of antecedent customs, nor a teaching by deductions from expressed general principles; the logical process may be described as a series of enthymemes with the major premiss suppressed; but a careful examination of many of these passages will disclose the general rule upon which the author proceeded. The form of their works must have been determined by their original function, as the professional witnesses of unwritten custom; the decisions pronounced by them in cases of the first instance, would naturally fall within Sir H. S. Maine's definition of Themistes, clearly illustrated in the following passage:—"It is certain that in the infancy of mankind, no act of legislature, nor even a distinct author of law, is contemplated or conceived of. Law has scarcely reached the footing of a custom—it is rather a habit. It is, to use the French phrase, 'in the air.' The only authoritative statement of right and wrong, is a judicial decision after the facts—not one

pre-supposing a law which has been violated, but one which is breathed for the first time by a higher power into the judge's mind at the moment of adjudication."

The present tract is a curious instance of this mode of dealing with novel questions. Water mills were introduced into Ireland by Cormac Mac Art, probably in the course of the third century, and the rules referable to them could not have grown up until the use of these constructions had become common, and questions had arisen upon the subject. There was therefore no antecedent custom; nor was there any sovereign power capable of establishing a law, in the proper sense of the term, upon the subject. The Brehon Judge must have proceeded in such cases precisely as the English Common Law Judges in a similar position; they referred to a supposed antecedent custom their decisions upon the novel cases arising before them, and by a series of decisions upon particular instances, ultimately created the materials from which general legal principles might be deduced. In the case of the Brehon Judges the form of their decisions continued unaltered, which the writers of their law tracts embarrassed themselves by adopting. The scholastic logic was known to, and taught in the schools of the Irish ecclesiastics in the middle ages, but in the Brehon law tracts there is not a trace of its influence. This fact may be attributed either to the natural opposition of the representatives of the old customary law to the schools in which the Canon or Civil Law would be considered as authoritative, or to the mode of teaching natural to an hereditary class of lawyers, influenced by traditional forms, and desirous to retain as a monopoly the secrets of their law.

IX.

Precincts.

The open space around a dwelling, which was assumed to be within the peace of the owner of the house, has been referred to in the Book of Aicill, published in the preceding volume, with reference to the compensation payable by

third parties for acts of violence committed within it.* The author of the present tract proposes to state the extent of the precinct with reference to every grade, both lay and clerical, and to discuss certain questions connected with the subject. The determination of the precise extent of each precinct he attributes to the decisions of a convention of the bishops, "ollamhs," chiefs, poets, sages, and seniors of Ireland, held at Sliath Fuaid in Magh Bregh, and alleges that the extent of the precinct fixed for each class, for the violation of which fines should be paid to the owner of the house, was written by the men of Erin in the great "*Cas*" of the ancients. The unit in this calculation is the extent of the precinct of the lowest grade, entitled to enjoy the privilege of sanctuary, that is the "*bo-aire*" chief, which was fixed in simple and archaic fashion. Let him be placed at the door of his house in his customary seat, with a spear, twelve hands breadth long, from the iron head to the horn ferule; so far as he could cast it did his precinct extend. This measurement of the limit of the precinct to which the owner of the house was entitled, rests upon the same principle of the well-known rule of the "maritime league" in international law, viz., that external combatants must suspend hostilities when their further prosecution would endanger a neutral in his usual and legal place of residence. The ordinary spear cast having been assumed as an unit it is doubled for the next higher grade in social rank, and so proceeds by geometric progression through the five remaining ranks to the King, whose precinct is consequently a circle with a radius of sixty-four spear casts.

A King of King, *i.e.*, either a provincial, or the national King, had, by virtue of his rank, a precinct, independent of measurement, inclusive of the entire plain, or meadow, within which his dwelling stood; and the same privilege was conceded to the Archbishop of Armagh, as "Coarb" of St. Patrick. A different method was adopted in fixing the extent of the precincts of the dwellings of ecclesiastics; in this case the calculation is based upon the extent of the

* Ante Vol. III., Page 119–145.

greatest, and not the smallest, precinct; to a church, "in which were the three grades of bishop, professor, and archinnech," approximately translated in the text, a "cathedral." belonged a precinct with a radius of two thousand paces; to a bishop, a saint, or a hermit, one of one thousand paces, "if it be in a plain," that is, inclusive of all the open surrounding space to the maximum extent of one thousand paces; the precincts of the lower ecclesiastics diminished in the same ratio as their respective "honor-prices." The right of protection was one accorded to the owner of the house for his own benefit and security; it was not a right of the fugitive who required protection; it might, therefore, be waived by the owner of the house, who was not bound to concede its benefit to a stranger, and if it were violated the result would be that damages should be paid to the owner of the house solely. The position of the two extern hostile parties was not altered by the fact that the fugitive succeeded in getting within the precinct of a third party, and therefore the owner of a precinct, as the condition of the inviolability of his own household, was bound to secure to the pursuer the legal redress to which he was entitled; this appears in the following passage, "What is protection as to reciprocal rights? because there is no protection without offer of law."* The right to the benefit of the rule as to the precinct was therefore suspended if the owner of the house refused to give to the pursuer the necessary guarantee. The protection afforded by the precinct naturally extended not only to the fugitive, but also to the property brought by him within the limit. Damages for the violation of the precinct did not arise solely from the fact of violation, but notice that the place in which a person was seized, or property recaptured, was within the limits of the precinct of a third party, was requisite to make the act otherwise justifiable a wrong as against the owner of the house; for among the cases of exemption is placed that of "ignorance," which is defined (with reference to some known case) as the seizure of cattle

* Page 233.

under protection, in the belief that they were not under protection; which must mean, in ignorance of the fact that they were within a precinct.*

The two other cases of what is called "exemption," that is, non-liability to damages for actual violation of the protection, are unlawful protection, and forcible violation; the former exception is free from difficulty, and applies to the case of the owner of the house refusing to fulfil his reciprocal duty of guaranteeing to the pursuer his legal rights; the latter is, however, not so clear; "forcible violation" of the protection of a precinct is the very act for which damages are payable, and, if this expression be referred to the pursuer, it would follow that the most aggravated cases would be exceptions to the rule. The only other to whom the "forcible violation" could be referred would be the fugitive himself, and it is suggested that the case contemplated is that of a fugitive refused protection, and himself forcibly entering the precinct. The construction put upon this last mentioned passage is strengthened by the fact that the succeeding paragraph assumes that the protection to be legal must be assented to by the owner of the house, or some one on his behalf.†

The assent to the entry of a fugitive within the limits of the precinct must have been given by the head of the household himself, or by some member of the family as his agent, and on his behalf. Hence his first wife and his unemancipated son,‡ or even an emancipated son or any person of the family could receive a fugitive. A very clear distinction as between express and implied agency is drawn in the text with regard to the reception of fugitives by persons other than the head of the house. If the protection is accorded to the fugitive by any member of the family by the express direction of the head of the household, full honor-price was payable for its violation; but if there were no express direction given for the reception of the fugitive, and a member of the family acting on behalf of the head of the house-

* Page 229. † Page 229.

‡ Page 231, but see note on this passage.

hold received him within the protection of the precinct, the amount of the honor-price payable for the violation of the protection was diminished, in accordance with the more or less intimate relation of the head of the house to the person who had assumed to act on his behalf. The person, who, on behalf of the head of the household, as his agent either express or implied, received a fugitive, was never entitled personally to any damages for the violation of that protection, which he could not have given in individual capacity. This implied agency extended only to those members of the household "who had no expectation of separation from the head of the house,"* thus a mere armed retainer or mercenary soldier temporarily resident in the house could not act on behalf of the head, nor could a person himself a fugitive under protection; as to these cases then is cited in the text the old rule: "Sanctuary of sanctuary; one pilgrim does not protect another; no one is entitled to fines for the violation *of the protection* of his hired soldiers." It would be attributing perhaps too much ingenuity to the Brehon Lawyers to believe that they worked out these rules by reference to the doctrine of implied agency; it would be more safe to conjecture that at an early period a fugitive might have been received into the protection of the household by any of its members, and subsequently their action was explained as being as that of implied agents of the head of the household.

The amount of damages payable in respect of a violation was varied with reference to the elements which entered into all such calculations, such as the extent of the violence used towards the fugitive, and the ranks of the fugitive and of the person whose protection was violated.

The number of the persons who could at the one time be received into sanctuary was necessarily limited; the pursuer could not be expected to yield to the claim to protect fugitives, unless the owner of the precinct could himself restrain them from departing, as otherwise his guarantee that justice should be done would be nugatory. The

* Page 231, butsee note on this passage.

number of fugitives who could at one time be received into protection was therefore limited to twenty-seven.

The church claimed to exercise a more extended protection than was accorded to the laity : " It is safe for her to protect before the terms (*specified times*) without offer of law in either of them, and to protect after the terms with offer of law, and to protect against death and unjust fines always."*

The rules with regard to the precinct, and the protection thrown over fugitives by the head of the household, would seem to be a survival of earlier ideas modified to meet the circumstances of a denser population, and the claims of the ministers of the Christian religion. There must have been originally some distinct and symbolical act by which the fugitive was removed into the protection of the house ; if this was connected with the ancient pagan religion, it may have fallen into disuse after the introduction of Christianity. The original position of the fugitive is thus described by Mr. Hearn : " Another division of the same class (the dependents of the family) consisted of refugees, especially refugees for homicide. It seems to have been an ancient belief that the stain of human blood, however incurred, required purification. There was also the danger of the blood feud from the kinsmen of the deceased. The homicide, therefore, generally fled from his home, and sought a person who could purify him from his sin, and also protect him from the avenger of blood. If such a suppliant applied to the House Father in the proper form, as recognized by the House Father's worship, and addressed him by the proper adjuration, such a request could not be refused. The stranger had brought himself within the protection of the House Spirits, and they would resent any wrong done to their suppliant. Away from his hearth indeed, and without the appropriate ceremonial, the House Father might at his pleasure grant or refuse the mercy to any person who sued for it. But the suppliant in the technical sense of the word, the ἱκέτης or the man who came to the holy hearth was a

* Page 235.

different case. Him the House Father was bound to receive, and when he had received him, the stranger was initiated, and became, at least for the time, a member of the household."*

X.

Divisions of Lands.

This tract is an attempt to fix arithmetically the value of a cumhal of land (cumal), having reference to the quality and advantages of the land in question. Arable land is divided into three classes—(1) first-class arable land, (2) hilly arable land, (3) labour-requiring arable land. A cumhal of the first class is valued at twenty-four milch cows, of the second class at twenty milch cows, and of the third-class at sixteen milch cows. Weak land, which may be understood to mean land fit only for grazing, is also divided into three classes, viz.,—coarse land, weak land, and deep land, a cumhal of which respectively is valued at twelve dry cows, twelve (*q.* ten) dry cows, and eight dry cows. The tract then considers the extent to which the value of any cumhal of land is increased by what were considered as its accidental and extrinsic advantages, such as the existence of a wood or mine upon the land, its fitness for the erection of a mill, or its facility of approach, or nearness to a highway, Each of these accidents is taken into account to increase the value in a certain ratio, and the value of any given cumhal of land is to be estimated, having reference to both the quality of the land and its accidental advantages.

Upon the first view it might appear that the whole tract is but a piece of solemn arithmetical trifling, such as the Brehon

* The Aryan Household, p. 109. The term "*derggfine*," which occurs in "The Divisions of the Tribe of a Territory," (page 285, l. 15), has been previously explained in accordance with the gloss upon that passage; but the existence of a class of members of a family, deprived of their land as a consequence of homicide, is so unusual a fact that it might be plausibly suggested that the "derggfine" included originally the ἵκεται admitted into the family, and when the original rights connected with their admission had become obsolete, and the custom, which must have been a late one, of forfeiting (to use this very inaccurate phrase), the lands of a wrongdoer had been introduced, the term (derggfine) was applied in the way in which the authors of the glosses understood it to be used.

lawyers loved to exercise their ingenuity upon; but a little consideration will prove that there is a practical basis for this apparently fantastic estimate. That the estimate is not of the character of a modern tenement valuation is obvious, for it applies to a state of society in which taxation was unknown, and not even its author could have anticipated that the price of land, when actually sold, could be regulated in this manner. To understand the meaning of this tract, it must not be forgotten that in ancient Ireland there was no currency or established standard of value, and that all mercantile transactions were carried on upon the footing of simple barter. In such a condition of the market how are the relative prices of articles quoted? The existence of a fixed standard of value means that the value of all other articles is estimated by the amount of them which can be purchased by fixed quantities of some one selected commodity. Any commodity may be selected as the normal standard, our habit of selecting gold or silver simply arising from the fact of their indestructible nature, and the assumption that their value in exchange is invariable.

When we speak of the penny loaf being larger or smaller, we mean that the amount of bread which a penny will purchase has increased or has diminished. When we state that a pound of tea costs two shillings or five shillings, we mean that the amount of silver which is equivalent in exchange to one pound of tea is greater or less. Both statements merely express the ratio which the value of a commodity fluctuating in the market bears to the value of ascertained quantities of a commodity assumed to be fixed in value. If, however, there exists no fixed standard of value, how is the price of any commodity to be stated? This difficulty was met by the ancient Irish, as by every other people under similar circumstances, in the following manner:—the actual amount of any article brought to market, or handed over to another person, is fixed by a certain unit which depends upon the mode in which the article is dealt in. Slaves and cattle would be counted by the head; metal by the usual weight of the bars; and farm produce by the form in which

it was offered for sale. Thus at the present day we deal in so many head of cattle, barrels of potatoes, or sacks of corn. Here the difficulty arises how to express the ratio which the value of any number of cattle bears to any given number of sacks of corn. For this purpose an abstract measure of value is invented, which is roughly estimated to be represented by a certain amount of each of the articles ordinarily brought to sale, and a given quantity of each article having been fixed as representing this value in exchange, the several quantities of the different articles are supposed to be equal in value to each other in the normal condition of the market. As in the present day, in remote country districts, a man who pays for the grazing of so many cows may take it out in the grazing of sheep or geese, each cow being represented by a customary number of the smaller animals, so in ancient times the value of a cow would be considered as equivalent, for the purpose of exchange under ordinary circumstances, to so many sheep, geese, &c.

It has been frequently remarked that in primitive societies the rule of supply and demand has almost no existence, and that the same price will continue to be paid for the same article during very long periods of time, and without regard to what are called mercantile considerations. As long as this mode of dealing is applied to articles which can be sold by measure and weight, and are of the same average quality, there is no difficulty in working the system; but as soon as an attempt is made to apply it to land, the difficulties involved become apparent. Land can only be sold by reference to its superficial extent, but the qualities of any two pieces of land of the same acreage are very different, and therefore their value in exchange cannot be the same. How, therefore, can the value of any piece of land be expressed with reference to the imaginary standard of value to which all other articles are referred? This is the question which the author of this tract attempts to solve, viz.:— What is the par of exchange of land in the market with reference to the other subjects of exchange? That he should fail in doing so in any practical manner was inevi-

table, for the question was, in its essence, insoluble; but he adopts the only reasonable mode of approaching the question, and handles the matter with considerable acuteness. He assumes as the base of his calculation a fixed measure of land, which he defines as the land-cumhal; he then divides land with reference to fertility or fitness for pasturage, and brings out the result in cattle; he then considers the accidental qualities of any particular land, and treats them as raising the value in a certain ratio; the value of any land in exchange would thus be represented by a certain number of cumhals in cattle, irrespective of the actual acreage of the land.

The basis of the whole calculation rests upon the superficial extent of a cumhal of land; and the commentator naturally appends a table of the superficial measurements upon which his calculation is founded. "How is a tir-cumaile measured?" By grains; three grains in a proper inch; six inches in the hand; and two hands in a foot; six feet in a pace; six paces in an "intritt" measure; six "intritts" in a "lait" measure; six "laits" in a "forach" measure.

The tir-cumaile would seem to be seventy-two square forach-measures. The following table represents the statement of the text:—

inch.						
1	hands.					
6	1	feet.				
12	2	1	paces.			
72	12	6	1	intritts.		
432	72	36	6	1	laits.	
2,592	432	216	36	6	1	forachs.
15,552	2,592	1,296	216	36	6	1

If we assume the foot measure to be practically equivalent to the modern foot, the "tir-cumaile" would be about 285 acres; on the other hand, if the forach-measure were

equal only to 144 feet, as would appear to be stated in the passage referred to in the note to the text, it would be equivalent to about 10 acres. There are no means afforded by the text to enable us to express any definite opinion as to which of these quantities is the correct result, and it would be inconsistent with the object of the preface to discuss the question generally with reference to other and extraneous authorities; nor, perhaps, could such inquiries lead to any definite result.

The ingenious mode of calculating the value of land devised by our author, could never have been practically applied; the term "tir-cumaile" originally meant, and probably always continued to mean, "the land of a *cumhal*," and when so used, necessarily excluded the assumption of the land being of any fixed acreage. Mr. O'Curry considers the phrase "tir-cumhaile," as much land as would suffice for the grazing of a cumhal of cattle, and this may have been the ordinary sense in which the term was used.

XI.

The Crith Gabhlach.*

This tract has received especial attention from Irish Antiquarians, inasmuch as it professes to give a detailed description of the several social ranks and organization of the Irish tribe. Mr. O'Curry has, in his Lectures on the Manners and Customs of the Ancient Irish, adopted this treatise as an authentic and archæic work, and without hesitation accepted its statements as a sufficient authority for his detailed account of the earliest form of the Celtic tribe system. Dr. W. K. Sullivan, adopting the views of Mr. O'Curry upon this subject, attributes the date of its composition to the middle or end of the seventh century. Before any discussion as to the nature of the work and the conclusions which may

* Mr. O'Curry, shortly before his death, revised and corrected his previous translation of this tract, making many important alterations and emendations. This revised addition has been entrusted to the present editors, and on all occasions the later and more matured text of Mr. O'Curry's translation has been followed in the present edition.

be fairly drawn from its statements, it is necessary to consider the probable date of its composition. It must be first remarked that it does not consist of an ancient text with an annexed commentary and explanatory glosses, but is manifestly written throughout by an author according to a definite plan, and that to the later lawyers who may have made use of it, it presented no archæisms, either of custom or language, which required special comment or explanation. The most important passage, as indicating the probable date of the composition, is the statement relative to the four rights to which it was proper that a king should pledge his people, the first of which is stated to be "a right to help him to drive out foreign races, i.e. against the Saxons."* Assuming that these latter words are not a gloss which has crept into the text (and there is no reason to believe that they are), the date of the work must coincide with a period at which the Saxons were regarded as the enemies *par excellence* of the Irish people, and not merely as a hostile, but as an invading race. It is obvious that no Irish writer would have singled out the Saxons as the special enemies of the Irish during the period covered by the Danish invasions, nor after that date until the Saxon had, in the mind of the people, been substituted for the Dane as their natural enemy. The date of the work must therefore be either before the end of the eighth century, or after the English invasion, the period covered by the Danish invasions being absolutely excluded. The early relations of the Irish and Saxons were of the most friendly character, and naturally so as the Irish were then busily employed in plundering, and perhaps to some extent, conquering, their christian and Celtic neighbours across the channel. This point is thus discussed by Dr. W. K. Sullivan, in the following passage of his preface to the Lectures of Mr. O'Curry :—"The common object of attack, Roman Britain, brought the Irish and Saxons in contact at an early period. And this intercourse was, on the whole, of a most friendly character. . . The hostility of the two peoples appears to have first arisen in consequence of the quarrels between the

* Page 335.

Irish and Saxon churches. Political causes helped to develop this hostility as soon as the Saxon dominion extended to the north of England, and the Saxon kings of Northumbria came into direct contact with the Scotic kingdom established in Scotland. The wars carried on by the Saxon kings against the Scots and Picts involved the Irish in the quarrels of their brethren in Scotland, and led to the ravaging of the coasts of Ireland by the Saxons. Venerable Bede records an expedition of this kind sent in the year A.D. 684, by Ecfrid, King of the Northumbrians, under a commander named Beort, 'which miserably wasted that harmless nation, which had been always most friendly to the English, inasmuch as in their hostile rage they spared not even the churches or monasteries.' It is in the seventh century that we find mention for the first time of the Saxons as enemies. The first notice of the Danes or Norsemen occurs in 790, or more correctly in 795. After that date, and until the arrival of the Normans, the Danes alone are mentioned as hostile foreigners. This circumstance is of very great importance in connexion with the date of the law tract, the *Crith Gabhlach*." After citing the passage above referred to, he proceeds:—"If this example be not an interpolation of much later times, it shows, taken in connexion with other circumstances, that the important document in question belongs to the period anterior to the Viking expeditions, and in all probability to the middle or end of the seventh century."* If this view of the meaning of the passage be correct, it follows that one plundering expedition against the Irish seaboard so profoundly affected the national mind, that the Saxon was held by the people as a national enemy to be expelled from the island which he had invaded. No allusions to the Saxons as such enemies are cited from any of the early Brehon Law tracts or popular romances; no act of hostility save one isolated plundering expedition is referred to; and it is to be remarked that after this event the Saxons at least were ignorant of any hostile relations existing between them and the Irish; Bede reprobates the expedition as a wanton

* Manners and Customs, &c., vol. i., p. xxxvi.

attack on a friendly nation; and at a later date Alcuin was of the same opinion, when, in a passage quoted by Dr. W. K. Sullivan, he described the Irish as "gentes Scotorum innocuas Anglis, et semper amicas."* The passage of the tract referred to would rather lead to the conclusion that the date

* The details of this raid, as related by the original authorities, are a proof rather of the friendly terms which always subsisted between the two nations, than that its result was to establish permanently hostile relations. The entire passage in Bede is as follows: "In the year of our Lord's incarnation 684, Egfrid, King of the Northumbrians, sending Beort, his general, with an army into Ireland, miserably wasted that harmless nation, which had always been most friendly to the English; insomuch that in their hostile rage they spared not even the churches or the monasteries. The islanders to the utmost of their power repelled force with force, and, imploring the assistance of the Divine mercy, prayed long and fervently for vengeance; and though such as curse cannot possess the kingdom of God, it is believed that those who were justly cursed on account of their impiety, did soon suffer the penalty of their guilt from the avenging hand of God; for the very next year that same king, rashly leading his army to ravage the provinces of the Picts, much against the advice of his friends, and particularly of Cuthbert of blessed memory, who had been lately ordained bishop, the enemy made show as if they fled, and the king was drawn into the straits of inaccessible mountains, and slain with the greater part of his forces, on the 20th of May, in the 40th year of his age, and the 15th of his reign. His friends, as has been said, advised him not to engage in this war; but he having the year before refused to listen to the most reverend father, Egbert, advising him not to attack the Scots, who did him no harm, it was laid on him as a punishment for his sin, that he should not now regard those, who would have prevented his death."—"*Ecclesiastical History*," Lib. IV., c. 26.

The Saxon Chronicle states—"A.D. 684. Here in this year Egfrid sent an army against the Scots, and Beorc, his alderman with it, and miserably they plundered and burned the churches of God."

The Saxons at least considered this raid *a sin*, and believed the king's subsequent death was a signal Divine chastisement.

The following is the statement in the Four Masters: "The age of Christ 683, the 10th year of Finachta. The devastation of Magh-Breagh, both churches and territories by the Saxons, in the month of June precisely; and they carried off with them many hostages, with many other spoils, and afterwards went to their ships."

The same raid is mentioned in the Annals of Ulster under the year 684, and in the Annals of Clonmacnoise under the year 680.

The captives taken upon the occasion of this raid were restored by the Saxons: "Adamnan went unto the Saxons to request [a restitution of] the prisoners, whom the North Saxons had carried off from Magh Breagh the year before mentioned; he obtained a restitution of them, after having performed miracles and wonders before the hosts; and they afterwards gave him great honour and respect, together with a full restitution of everything he asked of them." The Four Masters, Vol I., p. 291. The Annals of Clonmacnoise, under the year 686, states that, "Adamnan

of the work must be brought down to some date after the English invasion, unless there be internal evidence which would render such a conclusion improbable; and, if the date be so far postponed, it must be referred to a period considerably subsequent to the first invasion, to that at which all the Irish tribes stood in a hostile position to the English king, and the invasion was at length successfully checked, or at the earliest date, to the first quarter of the fourteenth century.

There is also internal evidence which, independently of the passage referred to, would lead to the same conclusion.

The most remarkable change in the organization of the early Irish Church was the substitution of an episcopal for the monastic system. In the earlier form of church government the abbot, not the bishop, was the ruling ecclesiastic; the "coarb" of the original saint was the head of the ecclesiastical tribe; the pre-eminence and territorial jurisdiction of bishops arose at a date long subsequent to the commencement of the Danish invasion. Is it probable that a treatise descriptive of the ranks of society, if written during the life of Adamnan, and the vigorous existence of the Columban monasteries, would omit any allusion to an abbot, and speak of the bishop as travelling "for the good of the church and the territory," and as of rank equal, if not superior, to the king of the tribe? There is further no allusion whatsoever to the geilfine system, nor to the geilfine flaith as representing his "fine," and therefore an important item in the social system

brought back sixty captives to Ireland." In the Annals of Ulster, under the same year, there is a similar statement.

It therefore appears that this invasion of the Saxon amounted merely to a raid a ong the coast between the rivers Liffey and Boyne; that all the restitution sought by Adamnan on behalf of his country was freely accorded; and that the inroad was regarded by the English as a sinful violation of their friendship with an allied nation. And it the more remarkable that upon his return to Ireland Adamnan succeeded in introducing into Ireland the Roman mode of computing Easter, which proves that at that date the Irish cherished no peculiar feelings of animosity toward the English or their ecclesiastical usages. (*See Bede Ecc. Hist., Lib. V., c.* 15.)

All the above references are contained in the notes to Dr. O'Donovan's edition of the "Four Masters."

—a very remarkable omission in a treatise of the character of the present. The condition of society exhibited in this work is that of the tribe system in state of decay and decadence, and rapidly tending to assume a feudal form. The simple freeman has sunk to the condition of the Saxon ceorl; the tribe lands have, to a great extent, if not altogether, been monopolized by the noble classes; the political power has passed into the hands of the chiefs and greater nobles; all classes, from the highest to the lowest, are bound together by the semi-feudal bond, founded upon the system of lending out cattle; all classes are rated for the payment of tribute to their superiors; and the basis of society seems rather to be personal service than the common rights of the members of the tribe. Except for the survival of ancient terms, and some archæic rules and peculiarities arising from the absence of a circulating medium and the material conditions of the people, the condition of the country, as thus described, was not very different from that it exhibited in the last century. This is the opinion of Mr. O'Curry, as expressed in the following passage:—"It is not very easy to translate into modern language the technical terms of the ancient law of Landlord and Tenant; but a very well matured system existed at a very early period indeed, under which, although there was no such thing as absolute property in land in any individual, still, within the tribe, individuals held exclusive property in land, and entered into relations with tenants for the use of the land, and these again with undertenants, and so on, much as we see in our own days. Now these relations constitute the first test of rank and condition. The Flaith —a word in some sense may be translated the Lord or Nobleman—was distinguished by being the absolute owner (within his tribe) of land for which he paid no rent, so that, if a man possessed but a single acre in this way, he was a Flaith. All other persons holding land held it either from a Flaith or from some tenant of his; and the rank and precedency of these persons depended upon the amount of their possessions."* Although there are many statements in

* Manners and Customs of the Ancient Irish, vol. ii., page 34.

this description to which exception may be taken, it fairly represents the practical condition of the Irish as depicted in the Crith Gabhlach, subject to the material correction that such was not the original system of the Celtic tribe, but rather the condition to which the tribe had been reduced at the date of the composition of this work. The same causes were at work in Ireland as elsewhere, and with the same results. The chiefs and nobles had succeeded in crushing the lower orders, and had converted into their own separate property the land originally the common property of the tribe. The Crith Gabhlach might fairly be described as a compendium of the rights and emoluments of the higher classes, of their house tributes, rents, cuttings, and costerings, and is not dissimilar from the old law book of the Brehon whereby the English commissioners "perceived how many vessels of butter, and how many measures of meal, and how many porks, and other such gross duties did arise unto M'Guire out of his mensal lands."*

It is not to be concluded that any Irish tribe or province was ever actually organized in strict conformity with the rules laid down in this tract. It is impossible to believe that a nation so mobile and turbulent as the Irish Celts lived under a system so rigid in its laws and pedantic in its minutiæ; that the different classes possessed so much and no more than the amount of property herein set down against them; inhabited houses of precisely the prescribed size, furnished in the manner described, and supplied with the farming instruments directed; that the occupiers of them paid so much and no more than their customary rents; and that the whole society, from the provincial King downwards, were bound, and acquiesced in, a complete system of semi-feudal service. The work must be considered as a description of society fully organized according to the current legal theory at the date of its composition; but it can no more be assumed that the existing community accurately corresponded to the legal theory, than that the condition of England in the

* Ante, vol. iii., page 36.

twelfth century, was such as Blackstone's sketch of the feudal system assumes it to have been.

The Crith Gabhlach treats of the various ranks of the freemen of the tribe, their mutual rights and duties, and the power and privileges of the King; the unfree classes of the community are only referred to in connexion with the rights and qualifications of the free.

The author lays down as the cardinal principle that the proper grade of the layman among the people is determined by the amount of his property. The number of classes of men is stated to be seven. That this number was selected as the sacred number, and was not in accordance with the actual state of facts, appears from the statement of the author himself, and the mode in which the division in classes is varied in different passages. The grades of a people are stated to be as follows:—(1) the "fer mbidboth" man, (2) the "bo-aire" chief, (3) the "aire-desa" chief, (4) the "aire-ard" chief, (5) the "aire-tuisc" chief, (6) the "aire-forgaill" chief, and (7) the king. This sevenfold division is stated to be derived from the similitude of the ecclesiastical orders, "for it is proper that for every order which is in the Church, there should be a corresponding one among the people."*

The two first classes represent the free but not noble, the latter five the free and noble.

The divisions of the noble class are then specified, and the number of them is again seven, viz.:—(1) the "aire-desa," (2) the "aire-echta," (3) the "aire-ard," (4) the "aire-tuisc," (5) the "aire-forgaill," (6) the "tamaise" of a king, and (7) the king. To complete the number seven in this, two further classes are introduced, the "aire-echta" and the tanist; the latter of these was an official person and not a class of individuals, and the same observation is applicable to the "aire-echta." The non-noble classes are classed as follows:—(1) the two grades of "fer-mbidba" men, (2) the "og-aire," (3) an "aithech" person, (4) the "bo-aire febhsa," (5) the "mbruighfher" man, (6) the "fer-fothla" man, and (7) the "aire-coisring"

* Page 299.

man. The seven classes are here again completed, first by the introduction of the "aithech," a very anomalous class, as subsequently explained in the text, and by the addition of the last three, viz., the "mbruigh-fer," the "fer-fothla," and the "aire-coisring," two of which are the names of officers, and not of classes.

The scheme of classification used by the author of the tract on Precincts, must have been different from that of the author of this tract; for he also, dividing the society into seven classes, states the two lowest to be the "bo-aire" and the "aire-desa," and the highest to be the king, omitting to give the names of the four intermediate divisions, and, with reference to the extent of their precincts, he fixes their rank upon the basis of a geometric progression, a gradation inconsistent with the ratio of their properties and honor-prices as fixed in this treatise.

The several ranks are divided with reference to the amount of property requisite to qualify for each respectively, and from and in the proportion to the requisite amount of property follow their rights and privileges (some of which we should now class as duties): (1) the legal value attributed to their oath, contract, guarantee, and evidence; (2) the honor-price; (3) refections, or the nature and amount of food they should receive from a host; (4) sick maintenance; (5) the extent to which they could give protection to a third party who claimed it; (6) the "taurcreic," or the amount of stock to be delivered to them by the superior to whom they commended themselves (the commendation to a lord in consideration of the "taurcreic" might be oppressive or advantageous to the inferior, according to the circumstances of the time); and (7) the "bes tigi" or house tribute, payable in kind by the inferior to the superior to whom he had commended himself.

The following analysis of the necessary qualifications and rights of the several classes will render the relative positions of the respective ranks clear.

A.—The Non-Noble Classes.

1. The "mbidboth" man. This class is sub-divided into two sub-classes, viz., the "mbidboth" man who had attained the age of fourteen years, but not yet that of seventeen years, "unless he has taken possession or succession before that, or a man of the Feini *grade* be a co-occupant with him," *i.e.*, unless he is himself in possession of a house, or be the joint occupant of one with a free man of full age (?), and the "mbidboth" man who had attained the age of seventeen years. The oath, contract, or guarantee of the former extended to the value of a "dairt" heifer; his refection was milk and stirabout; his protection extended to one of his own grade over the territory; his honor-price was a "dairt" heifer. The value of the oath, &c., of the latter was a "colpach" heifer; his protection extends to one of his own rank until he has given him double food (two meals?); his refection was milk and stirabout; his honor-price a "colpach" heifer; his proportionate stock (taurcreic) was four "seds" in value; his food rent (bes tigi) a wether; his sick maintenance for himself and his mother new unskimmed milk every third, fifth, ninth, and tenth day, and also on Sunday.

It appears from this that the very lowest class of freemen were not, as has been stated, wholly devoid of property; they are presumed to possess a house, in respect of which they may be required to pay food rent to a superior, and they had a share, however small, in the common pasture, otherwise they could not have availed themselves of the proportionate stock (taurcreic) they might receive.

2. The Bo-aire or enriched churl. The "mbidboth"-man, upon acquiring the necessary amount of property, became *ipso facto* a "bo-aire" chief, because, in this case, there was no change of status, as in the transaction afterwards mentioned from the non-noble to the noble class. This increase is attributed to the profits made by stock received from a lord in the first instance; for he is assumed to have commended himself to a lord; such would seem to be implied by the rule:—"In three days after notice half a portion

(of fencing ?) is due from him for a field; a third part of the fee for his theft, and his drunkenness, and his laming, and of 'eric' fine for killing him 'goes to his chief;" the chief, his lord, has a right to a certain amount of his labour, and a share in all damages for injuries done to him.

A. The lowest grade of the general class of "bo-aires" is the "og-aire," that is a young-aire, one who lately acquired the rank of a "bo-aire;" his property must, therefore, be assumed to be the minimum sufficient to quality for that rank. His property consists "of sevens;" seven cows and a bull; seven pigs and a boar; seven sheep, and one horse. The change in his position is marked by the statement that "He has land of three seven (21) cumhal value." The right to the land is connected with the possession of stock; but if a cumhal of land means enough land to graze a cumhal of cattle, or three cows, it would follow that he obtained grazing land far in excess of that which was necessary for his assumed stock. That the lands of a "bo-aire" may have far exceeded what was requisite for the grazing of a stock of "sevens," appears from the statement that there might be four or five "aithechs" on the land of one "bo-aire;" and as each "aithech" is defined as possessing ten cows, ten pigs, &c., the author must have contemplated the case of a "bo-aire's" lands being sufficient to graze fifty head of cattle, besides lesser beasts. The land held by the "bo-aire" was not his separate property, for there is a distinct reference to his paying one out of seven cows for the use of the land. The difficulty in understanding the "bo-aire's" position arises from their being no explanation of how or from whom he obtains the thrice seven cumhals of land. Stock, not land, is what the lord gave to the man who commended himself to him; that it was stock which was given pre-supposes that the inferior receiving the stock had, independently of his lord, the means of grazing them. It may be assumed that the proportionate stock given to the freeman not possessing other cattle, *i.e.*, the "mibdboth"-man fixes the share in the pasturage lands of a tribe to which each freeman was absolutely entitled, and that the right to put a larger

amount of stock upon the common pasture land, was connected with the actual amount of stock possessed by their owner; but that for every additional seven cattle put upon the lands, one was left as the payment for the year's grazing—the profits of the waste grazing lands would probably in the end be monopolized by the chief, as the English feudal lords of manors contrived to possess themselves of the waste. The "og-aire" also possessed one-fourth share in a plough, an ox, a plough-share, a goad, and a bridle, and a share (*quere*, one-fourth) in a kiln, a mill, and a barn. His house was nineteen feet in length, with an out-house of thirteen. His proportionate stock was eight cows; his food-rent was a "dartaidh" heifer. His refection extended to two men, who were entitled to no more than milk and stirabout, and a certain amount of new or sour milk and cakes. The passage which describes the extent of his evidence, &c., and the amount of his honor-price, is very remarkable. It appears from a subsequent passage that the normal amount of the honor-price, and legal value of the oath, &c., of a bo-aire, was five seds;* but in the case of an "oc-aire," this was reduced to three seds, which fact is thus explained:—"And the two seds, which are wanting to it (*his honor-price*) *are wanting*, because the stability of his house is not perfect, and he is not competent to undertake liabilities for them, like every other "bo-aire" for the smallness of his property,† from which we must conclude that the new "bo-aire" was not a full "bo-aire," and did not obtain the full rights incident to his rank until some subsequent period.

B. The second sub-division of the "bo-aire" is the "aithech," who is distinctly stated by our author not to be a "bo-aire," but why he was not so considered it is difficult to discover. His property exceeded that of the "og-aire;" his stock was "ten," *i.e.*, ten cows, ten pigs, ten sheep, &c.; his house was twenty feet in length, with a kitchen of fourteen; the value of his oath, &c., and his honor-price was four seds; his proportionate stock was ten cows, and his food-rent the choicest of a herd of cows, and a bacon, four sacks of malt, and a

* Page 309. † Page 307.

wooden vessel of salt; he was entitled to refection for two, milk and stirabout, butter on Sunday, venison, sea-grass (?), onions and salt. His property and social position was superior to that of the "og-aire," and he was not considered as of the "bo-aire" rank, but what was styled "an immovable tenant." The reason given for this is as follows:—"What is it that puts this man from being in the rank of a 'bo-aire?' Because it may be that four or five such may occupy the land of a 'bo-aire,' and it could not be easy for each of them to be a 'bo-aire.'"* What is very noteworthy as to this class is the disproportion of the food-rent to the other incidents of his position, and proves some uncertainty as to his status. He, although possessing cattle, is described as grazing them upon the land of a "bo-aire;" but as a "bo-aire" is not described as having any land of his own, it must mean that he was some kind of sub-assignee of the "bo-aire's" grazing rights, and that the transaction bore some resemblance to the grazing partnerships referred to in the Book of Aicill.†

C. The "bo-aire" febhsa, or the wealthy "bo-aire," is one who has acquired the full rights of his class. His property is larger than that of the "og-aire"—he has twelve cows and twice seven cumhals of land, a house of twenty-seven feet and a back-house of fifteen, a share in a mill and a kiln, barn, sheep-house, calf-house, and pig-stye. As before remarked, the value of his oath and his honor-price were five seds, his proportional stock twelve cows, and his food-rent a male "colpach" heifer with its accompaniments.‡

D. The next class, the "mbruighfher" is evidently an official of the "bo-aire" rank, not an independent sub-division of the entire class. He is "the 'bo-aire' for obedience to judgment." His property is represented as twenty cows, two bulls, six bullocks, twenty hogs, twenty sheep, four house-fed hogs, two sows, and a horse, and he has also sixteen sacks of seed in the ground; he has a lawn for sheep about his house, a house of twenty-seven feet, and a back-house of seventeen feet, and outhouses. The value of his oath, &c., and his honor-price, are six seds. His propor-

* Page 309. † Ante, Vol. III., page 142. ‡ Page 311.

tionate stock was two cumhals, and his foot-rent a cow with its accompaniments.* The very peculiar enumeration of fines for all conceivable injuries to himself and his property prove that he occupied an exceptional position. It would seem that he was in some way bound to offer hospitality to a king, a bishop, a poet, or a judge "from off the road," and that his supply of eatables for such purpose was portion of his "obedience to judgment."

E. The highest of the members of the "bo-aire" class is described under the title of the "fer-fothla chief," and was so called because his cattle having become too numerous for the grazing which he himself possessed, he had commenced to give them out to others as taurcreic, or additional stock. There is no amount of property fixed as the necessary qualification for this rank, the test of the qualification for which was that his property was in excess of his means of supplying necessary grazing. The amount of his honor-price and the value of his oath, &c., is eight seds, his house was twenty-seven feet in length, with a back-house of seventeen. His proportionate stock was four cumhals, and his food-rent a cow with accompaniments one year, and a male colpach heifer the other.

A "fer-fothla" chief manifestly stood at the head of the "bo-aire" class, for it was the "fer-fothla" who is described as passing from the non-noble to the noble grade in the manner subsequently discussed.

F. The "aire-coisring" chief is evidently an official person, and not a sub-division of the "bo-aire" class. He is described thus:—"Why is the 'aire-coisring' (*i.e.*, the binding 'aire') so called? Because that he binds people, king, and synod on behalf of his tribe (cenel), in their rights of safety by verbal engagements; but they concede to him leadership, and a right to speak before (or for) them. He is the family chief then. He gives a pledge for his family to king, and synod, and professional men, to restrain them in obedience."† His honor-price and the value of his oath, &c., were fixed at eight seds. His house was thirty feet in length, and the

* Page 311. † Page 317.

outhouse nineteen. His proportionate stock was five cumhals, and his food-rent a cow with its accompaniments, and a male "colpach" heifer, with its proportion of other food. No amount of property is fixed as a necessary qualification.*

The "aire-fothla" passed under peculiar circumstances from the "bo-aire" class into the noble class—that of the "flaiths." These are explained in the following passage of the text:—"When does the 'Aithech'-tenant become a chief having the bo-airich-ship? Upon going into a true green (the extent of precinct suitable to the rank of a flaith). When he has as much as the 'aire-desa,' it is then he is an aire-desa, &c."† When we turn to the explanation of an "aire-desa" chief's qualifications in a subsequent page, the following passage occurs:—"And he is the son of an 'aire,' and the grandson of an 'aire.'"‡ The "bo-aire-fothla" chief did not attain the rank of a "flaith" by merely purchasing an acre of land, for there is no reference to land in the transaction; nor did he acquire it by virtue of possessing merely the property of a "flaith," for his property was required to be double of that at which a "flaith-desa" was valued, nor again could he be considered a "flaith," unless both his father and grandfathers were "aires," which must mean something more than they had been "bo-aires." That there was some element of hereditary descent requisite to fix the social position of a "flaith" all analogy leads us to expect. The elevation of a "bo-aire" to the rank of a flaith was not simply equivalent to his being rated at a higher valuation. He acquired what was called the "deis"-right, which is thus defined in the text:—"What is the deis-right of a 'flaith'? The goodly right to protect his office *or rank*. There are four 'deis'-rights prescribed for the 'flaith'-chief. The ancient protection of the people (or territory) is his office in the territory, together with the office of leader, or 'tanist'-leader *of the army*, whichever office it may be, of his 'giallna'-tenants, his 'saer'-tenants, his 'sen-cleithe'-tenants, the punishment of every imperfect service, the following of cottier tenants and 'fuidher'-tenants

* Page 319. † Page 317. ‡ Page 321.

whom he brings upon his land, because his wealth is the greater and better."* And again, "Why is the 'aire-desa' so called? Because of the fact that it is on account of his 'deis'-rights that he is paid 'dire-'fine. Not so the 'bo-aire' chief; it is in right of his cows he is paid 'dire'-fine."†

Upon this subject Mr. Hearn makes the following observations:—"Among the members of the clan itself, within the 'cinel,' in the strict sense of the term, and apart from the exceptional privileges of the royal house, there was a well-marked difference. That difference was between the noble and the free, or, as it may otherwise be expressed, between the gentle and simple. Both classes were equally members of the clan, and, to a certain extent had equal rights. But both by public opinion, and by the custom which supplied the place of law, certain sections of the community possessed, in comparison with other sections thereof, an acknowledged superiority. Their descent was purer; their wealth was greater; their wer-geld was higher; their share in the public lands, or in the distribution of booty, was larger; they were the natural leaders of the community in war, and its natural councillors in peace. Accordingly, we observe in the early history of all Aryan nations, the presence of what may be called a natural aristocracy, as the leaders and kinsmen of a natural democracy. It is not difficult to understand that some households should be more prosperous, more numerous, and more wealthy than the others. Yet these advantages are rather the effects than the causes of such a difference as that which we are considering. Even if there were no evidence, that in at least certain societies, land was distributed according to the rank of its holders, they are inadequate to explain all the facts of the case. They may account for the difference in modern society, where individuals rise and fall with a rapidity unknown to archaic nations; but they do not explain the strongly marked lines, which intersect the society of the ancient world. The preceding inquiries point, for the cause of the difference, to some sentiment connected

* Page 321. † Page 321.

with the peculiar religion of our forefathers, and consequently affecting their descent. The facts correspond with the expectation. A certain series of pure descents was sufficient to establish freedom, and a share in the government of the community, and in the distribution of lands; but another and a larger series was necessary for the full enjoyment of all the honours and all the consideration which the community could give." "The rule of nobility seems to be the result of two other rules. One is that fundamental principle of taking the common great-grandfather as the stock or founder of the joint family or Mæg; the other is the rule of the Three Descents. The effect of the latter rule was, that for the purpose of acquiring full rank in any particular status, the claimant must show that his father and both (?) his grandfathers had held that status. Consequently, a man who claimed to belong to the nobility of the clan must show that his grandfather was noble—that is, that his grandfather had a kin, or in other words, had a great-great-grandfather who was a freeman." After referring to various other archaic systems of law, Mr. Hearn makes the following remarks upon the existence of this rule among the Celtic nations:—"The Celtic nations also exhibit traces of a similar custom. In Cymric law, the descendant of the original *Altud* or stranger to the district, was, after the lapse of three generations, ranked as a "Briodwr;" and thenceforth became irremovable, and was entitled to his share in the lands of the 'vicinity.' In Scotland a similar rule applied to serfs, although it is possible that in this case the rule may have been introduced from England. In Ireland the descendants of a Bo-aire, or Ceorl, might aspire, when they possessed land (?) for three generations, to become Flaths."* So, too, "A '*Fuidhir*' family† in the fourth generation—indeed, in the third, for the Daer Botach had also right of settlement—could not be ejected from the land. That is, the third descendant was capable of transmitting heritable right, and the fourth of acquisition by virtue of such right." As a curious exemplification of this principle,

* Manners and Customs, &c., Vol. I., p. cix. † Ib., p. cxxi.

Mr. Hearn refers to a passage in the Introduction of the preceding volume relative to the claims of his original church upon the property of a former member.* Upon the practical working of this rule Mr. Hearn further remarks: —"These considerations indicate the triple distinction of the ancient free population. It consisted of freedmen, of freemen, and of nobles. The distinction rested exclusively upon blood, and could not, therefore, be removed by grant either of people or of King. By the operation of time, if there were no disturbing influences, each lower class naturally passed into the one next above it. Each step of the promotion brought with it increased consideration, additional strength and influence, by reason of a more numerous kindred, and more extended alliances, and no small material advantage, both direct and indirect. At a later period, when the dependent portion of the household became developed, and the Gesindschaft was established, other varieties of rank arose. Nobility was then derived, not from birth, but from official position, and attendance upon the throne."†

The idea of "limitation" in the Irish law was connected with three successive lives, either of three persons in lineal descent, grandfather, father, and son; or of three successive over lords, as in the case of Daer Fuidhir tenants,‡ or of three successive owners, as in the case of rights of water. The same idea of three, or its multiples, being the basis of such calculations, also appears in the passage in this tract, stating that cottiers and "fuidhir"-tenants been "sencleithe"-tenants, and irremovable after serving for nine times nine years.

We may now proceed with the analysis of the remaining ranks in the tribe.

* Vol. III., p. lxix.

† These extracts are selected from the VIIIth Chapter of "The Aryan Household," pp. 193 to 209.

‡ Upon this point Mr. Hearn seems to have fallen into error.—V.S.

B.—The Noble Classes.

1. The "aire-desa".—The property with reference to which this and the subsequent class are arranged, is manifestly land, as the number of the tenants of each is respectively stated, as in the non-noble classes the number of their cattle. The tenants of the "aire-desa" were ten, five "giallna," and five "saer"-tenants. The amount of food to be furnished by the tenants is stated in detail. An incident to the right of feasting at the houses of his tenants ("coshering") was the number of persons whom he might take to their houses from the "Calends" to Shrovetide; ten couples are the number specified in this case; in return he was expected "to protect his tenants in all just suits of 'cain' law and 'cairde'-law, standing towards them in the relation of a patron to his clients. The legal value of his oath, &c., and honor-price was ten 'seds'; the length of his house twenty-seven feet; his proportionate stock was six 'cumhals,' and his food-rent two cows."*

2. The "aire-echta" was an officer of the tribe, and does not represent a class; this is obvious because no property, qualification, rights, or liabilities, are specified in his case.† The duty of the "aire-echta" was "to avenge the insult offered to a territory in which a person was lately killed;" he was an appointed avenger of wrongs. This is illustrated by the case of the blinding of Cormac Mac Airt, "Aengus Gabhuaidech" was an "aire-echta" (translated "champion"), who was avenging a family quarrel in the territories of Luighne, and he went into a woman's house there and drank milk in it by force; and the woman said, "It were better for thee to avenge the daughter of thy kinsman upon Cellach, son of Cormac, than to consume my food by force."‡ Aengus thereupon at once proceeded to Temhair and slew Cellach; the point of the story seems to be that the woman reproached the "aire-echta" for plundering her under colour of avenging a family quarrel, while he left unperformed the more important and dangerous duty of slaying the king's son for the abduction of one of the women of the tribe.

* Page 321. † Page 323. ‡ Ante, Vol. III., page 83.

3. The "aire-ard." He had twenty tenants, ten giallna, and ten "saer"-tenants; twenty couple were "his right on a feasting;" his honor-price and the value of his oath, &c., was fixed at fifteen seds; his proportionate stock was seven "cumhals," and his food rent three cows. There is no statement as to the size of his house.*

4. The "aire-tuisi," who had twenty-seven tenants, fifteen "giallna" tenants, and twelve "saer" tenants; he had thirty couples at the feasting. The value of his oath, &c., and his honor-price was fixed at twenty "seds"; his house was twenty-nine feet in length; his proportionate stock was eight "cumhals," and four cows his food rent. The aire-tuisi in the third generation participated in the government of the tribe. "He makes (*assists in making* ?) 'corus'-arrangements in the 'raith' right of his father and grandfather."†

5. The "aire-forgaill" stood in rank at the head of the nobles, and next to the king and tanist; his position is marked by the words "he testifies to *the character of* the grades we have enumerated, in every case in which a denial of a charge is sought, because his quality is superior to that of his companions." This passage might lead to the conclusion that the "aire-forgail" was an official who had the power of deciding the status of the individual members of the tribe, but inasmuch as the "aire-forgaill" chief is introduced into the list of titles of dignities in the subsequent tract, although the "aire-echta" is omitted, it is probably that the name indicates a class, not an office, and that the right to give evidence as to the status of a member of a tribe was incident to the position of the first class of the nobles. He had forty tenants, twenty "giallna" and twenty "saer"-tenants; the value of his oath, &c., and honor-price was fixed at fifteen seds; his house was thirty feet in length; his proportionate stock nine "cumhals," and his food rent five cows.‡

6. The "tanist" of the king or his elected successor. He had five "sencleithe"-tenants more than an "aire-forgaill"-chief

* Page 325. † Page 327. ‡ Page 329.

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from which it may be conjectured that his father and grandfather must also have been "aire-forgaill" chiefs. His honor-price and the value of his oath was fixed at thirty seds; ten "cumhals" were his proportionate stock, and six cows his food rent. There is no reference as to the size of his house, or his receipts from his tenants, which may be assumed to have been considered the same as those of the "aire-forgaill" chief, and it is probable that the additional five "sencleithe"-tenants, which he is stated to have, were not in addition to the number of the tenants required for the rank of an aire-forgaill, but are introduced to indicate that his tenants had acquired the position of "sencleithe"-tenants under his family, as a proof of the status of the tanist himself.*

7. The king. This rank is sub-divided into three classes:—

A. A king of hills or of horns; the term is not easy of explanation; it, however, is used to designate the position of the head of a fully organized tribe. Naturally no property qualification is annexed to this rank. His honor-price and the value of his oath, &c., were fixed at seven "cumhals"; his proportionate stock was twelve "cumhals," and his food rent six cows. The size of his house is not stated.*

B. A king of companies, the head king of three or four reguli. His honor-price and the value of his oath, &c., were fixed at eight "cumhals," for which amount his "sick maintenance" was to be commuted; his proportionate stock was fifteen "cumhals," and his food rent eight cows.†

C. The head king, whose supreme position is indicated by the passage, "under his control every chief is who cannot be corrected by his lord." His honor-price and the value of his oath, &c., were fixed at fourteen cumhals; as the supreme head he could give, but not receive, cattle, and therefore there is no reference in this case to proportionate stock or food rent.† His residence is described with much particularity as a fortified "dun" fort, but the length of his house does not much exceed that of the higher noble classes, being only thirty feet.

The rank of every freeman determined that of their family

* Page 329. † Page 331.

and dependents, and entitled them to proportionate compensation. "Half the sick maintenance *of a man* of every grade *is due* for his lawful son, *and* his wife; for it is half which is due for every lawful *person*, one-fourth for every unlawful *one*. The wives of mercenary soldiers have sick maintenance in right of their sons and husbands. Stewards *and* couriers are sustained with half the maintenance of their chief. They arrange that their share in the maintenance corresponds with their sustenance by their chief. Every artizan who makes the manufactures of a chief, or a church, is sustained with half maintenance, according to the rank of each person whose manufacture he makes."*

The object of the author in fixing the number seven as the basis of his classification appears in the passage:—"The maintenance of every grade in the church is the same as that of its co-grade in the laity."* He desired to treat the seven grades of the church as correlative to the seven grades of the laity, the *ostiarius* corresponding to the "mbidboth"-man, and the bishop to the King; or rather, finding the number of grades in the church fixed at seven, he attempts to classify the laity in seven grades, and either omits or interpolates ranks to produce the required result. This fact is conclusive of the extremely unreliable nature of the classification contained in this tract, and the impossibility of treating it as historical evidence of the organization of an Irish tribe at any period.

The analysis of this classification is shown in the annexed table. None of the incidents of any rank are introduced except such as are more or less common to all, and capable of being numerically expressed.

In these tables the names of the classes printed in Italics are those which are rejected upon the ultimate analysis. The introduction of the "aire-echta" to make up the number is manifest in this table. The series of numbers in all the columns seem to have been fixed before he was introduced, and any numerical qualifications attributed to him would have destroyed the regularity of the numerical sequence.

* Page 333.

——	Value of Oath, &c., and honor-price.	Rent in kind from Tenants.	Company at Coshering.	Company in the Tribe.	Proportionate Stock.	Food rent of House.	Size of House.	No. of Tenants or property qualification in Cattle.
a^1. Mbidboth, . . 1.	1 dairt heifer, .	—	—	—	—	—	—	—
a^2. Do., . . . 2.	1 colpach heifer,	—	—	—	4cows or 5seds.	1 wether, .	—	—
b. Og-aire, ...	3 seds or $2\frac{2}{5}$ cows.	—	—	—	8 cows or 10 seds.	1 dartaiah heifer.	19 feet,	21 cumhals of land, and 7 cows.
c. *Aithech*, ...	4 seds or 5 cows,	—	—	—	10 cows, .	1 cow, &c., .	20 ,,	10 cows.
d. *Bo-aire-febhsa*, . .	5 seds, $4\frac{4}{5}$ cows,	—	—	—	12 cows, .	1 male colpach heifer.	27 ,,	14 cumhals of land and 12 cows.
e. *Mbruigh-fer*, . . .	6 seds, $7\frac{1}{2}$ cows,	—	—	—	2 cumhals, .	1 cow, .	27 ,,	21 cumhals of land, 20 cows.
f. *Fer-fothla*, . . .	8 seds, $7\frac{1}{2}$ cows,	—	—	4	4 cumhals, .	1 cow and 1 heifer.	27 ,,	Do., with excess of stock lent out.
g. *Aire-coesring*, . . .	9 seds, $11\frac{1}{4}$ cows,	—	—	5	5 cumhals, .	1 male colpach heifer.	30 ,,	—
A. Aire-desa, . . .	10 seds, $9\frac{2}{5}$ cows,	1 cow, 1 colpach & 3 dartaid heifers.	20	6	6 cumhals, .	2 cows, .	27 ,,	10 tenants, 5*g*. 5*s*.
B. *Aire-echta*, . . .	—	—	—	—	—	—	—	—
C. *Aire-ard*, . . .	15 seds, $14\frac{2}{5}$ cows.	2 cows and 8 heifers.	40	7	7 cumhals, .	3 cows, .	—	20 tenants, 10*g*. 10*s*.
D. *Aire-tuisi*, . . .	20 seds, $19\frac{3}{5}$ cows.	4 cows and 11 heifers.	60	8	8 cumhals, .	4 cows, .	29 feet,	27 tenants, 15*g*. 12*s*.
E. Aire-forgaill, . . .	15 seds, $19\frac{3}{5}$ cows.	5 cows and 14 heifers.	—	9	9 cumhals, .	5 cows, .	30 ,,	40 tenants, 20*g*. 20*s*.
F. *The Tanist*, . . .	30 seds, $28\frac{4}{5}$ cows.	—	—	10	10 cumhals,	6 cows, .	—	—
G^1. A King of Horns, .	7 cumhals, .	—	—	12	12 cumhals,	6 cows, .	—	—
G^2. Do. of Companies, .	8 cumhals, .	—	—	80	15 cumhals,	8 cows, .	—	—
G^3. Head King, . . .	14 cumhals, .	—	—	30	—	—	37 feet,	—

If we turn to the scheme of the ranks of a tribe contained in the next tract, we find the arrangement wholly different. The titles of rank (or of discredit) given here amount to twenty-six. The arrangement is in the inverse order of that in the present tract, commencing with the King and proceeding downwards. The nine last of these classes may be disregarded as representing the unfree class. They are discribed as not possessing the right to go into the assembly who had no dire fine, and were not worthy to enter into bonds or securities.

There remain therefore seventeen distinct terms, representing, according to the author, so many classes of the free members of the community. Their respective grades are marked solely by the amount of their honor-price, and the number of persons to free feeding they were entitled. A reference to the case of the class No. 9 (the henchman "*seirthuid*"), and class 21, the "*aire*-tuisi", will show that the phrase "free feeding" means the supply of food to a certain number of individuals, not a right to pasture so many head of cattle. The sequence of the ranks of the free persons in the tribe, according to the sequel, would be represented as follows :—

Ranks.	Property.	Free-feeding.	Honor-price.
The "Uaitne," . . .	None, .	2 and a cow, .	5 seds.
The 'second' *of a* "*Bo-aire*,"	8 cows, .	3	2
The "Bo-aire, . . .	10 ,,	4	3
A "*Flaethem*" *of one vassal*,	—	5	4
A half "*Flaethem*" *person*, .	—	8	5
A full "*Flaethem*" *person*, .	—	10	10
A "*dae*" *person*, . . .	—	—	4 half cumhals.
An "*ansruth*" *person*, . .	—	4	$\frac{1}{3}$ cumhal and a sword.
An "*idhna*" *person*, . .	—	5	3 thirds of a cumhal.
An "*aire-fine*" *Chief*, . .	—	6	7 cumhals to four.
An "aire-desa" Chief, . .	—	10	1 cumhal to seven.
An "*aire-tuisi*" *Chief*, . .	—	20	$1\frac{1}{2}$ cumhals.
An "*aire-ard*" *Chief*, . .	—	30	$3\frac{1}{2}$ cumhals.
An "aire-forgaill" Chief, .	—	30	$3\frac{1}{2}$ cumhals.
A King of the 3rd rank, .	—	—	$7\frac{1}{2}$ cumhals.
A King of the 2nd rank, .	—	—	14 cumhals.
A King of the 3rd rank, .	—	—	5 cumhals of gold and a jewel.

As to the ranks common to both, the following result

may be arrived at by a comparison of the tests:—The freeman, without any property, is called in the Crith Gabhlach a "mbidboth," and in the sequel an "uiatne"-man, these two terms representing the lowest class must be identical.

The "og-aire" of the first list corresponds partly with the 'second' of a "bo-aire," and partly with the "bo-aire" of the second list.

The "aire-desa" is common to both, and it appears from the amount of their honor-price, that the "full flaithem" and the "aire-desa" of the second list are identical.

The titles of the "aire-ard," "aire-tuisi," and "aire-forgail," are common to both lists, but the latter tract treats the "aire-ard" as identical with the "aire-forgaill." The sequel treats the "aire-ard" (or "aire-forgaill") and the "aire-tuisi," as officials simply, and they should, according to this authority, be struck off the list of the classes of society.

The result will be to reduce the number of the actual ranks of society to four:—(1) the "mbidnoth" or "uaitne" man, the freeman without property; (2) the "og-aire," or bo-aire, the freeman possessing a property qualification; (3) the "aire-desa," the noble with property qualification; and (4) three grades of Kingship. It is to be remarked that at these points the valuation as to honor-price exactly coincides.

If we refer to the scale of compensation for the death of any person killed, as set out in the Book of Aicill, the result is as follows:—

1. A king, bishop, professor, chief poet, and every archmech person, or best "aire-forgail" chief, ...	14	cumhals.
2. A middle or lower "aire-forgaill" chief, or "aire-ard" chief, ...	7	do.
3. An "aire-tuisi," or "aire-desa" chief, . .	4	do.
4. A "bo-aire," or "og-aire" chief, . . .	3	do.
5. A "fer-midbaidh" person, ...	2	do.
6. A "flescach" person, or "dair"-workman, .	1	do.*

* Vol. iii., p. 475.

Upon a comparison of these three lists, the following results follow; that the essential distinctions as to ranks were five only, viz.:—(*a*) the Kings of three orders, and those persons, who, from their official position, were placed in the same category; (*b*) the nobles, who were sub-divided into four classes:—the "aire-forgaill," the "aire-ard," the "aire-tuisi," and "aire-desa"; and that the best "aire-forgaill" filled an official position, which placed him in the same category as the king; (*c*) the freeman possessing property, the "bo-aire;" (*d*) the freeman without property; and (*e*) the non-free classes.

That a great proportion of the classes introduced into the sequel are purely imaginary is evident upon the face of the tract. As between this tract and the Crith Gabhlach, to which it is supposed to be a sequel, the list in the former appears the more ancient and trustworthy; the author of the sequel, if he had had the Crith Gabhlach before him, never would have abandoned the principle of systemizing the ranks in sevens, nor omitted so many as seven of the grades. He also ignores the precise directions as to the sizes of their respective houses, and the amount of their furniture, which occupy so large a proportion of the Crith Gabhlach, and he does not allude to the amount of proportionate stock and food rent, which in the Crith Gabhlach is stated as an essential mark of rank, upon the assumption that all classes were bound in a feudal tie to some superior. The statement in the Book of Aicill is clear and practical, and is far more valuable as an authority than the later tracts. It naturally follows that we regard the Crith Gabhlach as, to a great extent, an imaginary work, the Utopia of a Brehon Lawyer, and, although containing very numerous fragments of archæic law, not affording any distinct basis of an historical character; and that a description of the condition of the ancient Irish nation, if founded upon a faith in the Crith Gabhlach, as descriptive of an existing order of society, must be considered as merely imaginary.

The concluding portion of this tract discusses the duties, rights, and appropriate mode of life of a king, according to

the standard of the period; of the ideal king, who is described as a man full of lawfulness in all respects, consulted for knowledge, learned and calm.

Although there is difficulty in explaining many of the details, a definite picture is given of the mutual relations of the king and his people, and the mode of life at the date of the work. The duties and rights of the king are conceived as resting upon his representative character; as the "flaith," as the patron of his retainers or clientèle, or the head of the house on behalf of his family, represents in the assembly or before the judge all those technically "in his hand," so the kings stands as the agent of his tribe; "he swears for them to the king (*i.e.*, to the superior king) on behalf of the territory. He denies (or makes oath) on their behalf; he proves for them *to the extent of* seven cumhals. He goes into co-judgment, into co-evidence, with the king for his people."* The relation of the king to the tribe implied reciprocal rights and duties, as that of head of the household to its members:—"They are entitled to righteous judgments. They are entitled to a pledge on their part. They are entitled to sustenance as they sustain."* In three cases the king is authorized to bind the people by his promise made on their behalf; viz., a pledge for hosting, which means a levy of the armed force for a definite purpose, three of which are stated in the text; a pledge for right; and a pledge for international regulations. For three purposes the king was entitled to call the people together; for a fair, for a meeting for correction, or making a contract, or for the purpose of accompanying himself to the boundary.* The paragraph commencing in page 335 states:—"There are now four rights which a king pledges his people to observe." By this, having reference to the passage which follows, should probably be understood the rights which the king is entitled to exercise as against the people; the measure and extent of his executive authority. The first right mentioned is the right of "Fenechus"-law, but it is added:—"It is the people who proclaim it. It is the king that proclaims the

* Page 333.

other three rights, and it is the king that enforces them." The enactment of rules to bind the people rested with the people themselves; the king had no legislative power; he enforced obedience to the law, but could not himself enact one. As the idea of the enactment of a new law, in the correct use of the term, was quite foreign to the state of society with which we are dealing, this perhaps might be more correctly expressed by the statement that the people declared the custom, and made the regulations incident thereto, and that the king carried them out into execution; having reference to the second right attributed to the king, the "Fenechus"-law proclaimed by the people dealt with the division and management of the tribe land, which at the present day is the all-engrossing business of the Swiss Communes.

The second right of the king is defined as "a right after they have been defeated in battle, and he consolidates his people afterwards so that they are not broken up; and a right after a mortality."* Both of the circumstances under which this right of the king arose, are cases in which the tribe had suffered the loss of many of its members, and the relative proportions of the several households had been materially altered, and for the stability of the tribe, and to ensure cultivation, it would be requisite to redistribute the tribe land among the surviving members. The extreme case of a tribe having been driven out of its original territory, and establishing itself in a new district, would be an instance of the circumstances under which the exercise of this unusual authority on the part of the king would be necessary; so also if, by any casualty, a large proportion of the tribe perished (we frequently read in history of the destruction or banishment of an entire gens), the result must have been, to a greater or less extent, a recasting of a mode in which the tribe land was distributed.

The third right is defined as that of the King of Cashel in Munster, that is, such well-known rights as the King of Cashel, taking him as the leading case, is understood

* Page 335.

to possess.* Three such are enumerated, the first of which is obvious enough, "the right to help him to drive out foreign races." The right secondly mentioned, "a right for the sowing of seed," is not so simple or easy of explanation. Dr. O'Donovan explained it as a right of the head king, when the under kings were fighting among themselves and neglecting their legitimate business, to compel them to abstain from hostilities, and "to sow their lands." This is a remarkable instance of the habit of attributing the morals and ideas of the nineteenth century to the members of a semi-civilized community, and assuming that they did act as we think that we ourselves ought to

* This passage in the original text manifestly refers to the celebrated Psalter of Cashel, supposed to have been written by St. Benean (or Benignus) to appease his relations, justly indignant that he, being a Munsterman, had blessed Connacht, whither he had been sent by St. Patrick to preach Christianity. "Cognati Sancti Benegni, ut populus Eoganiæ Casselensis, Olildiana progenies, et alii Momonienses, audito prædicto ejus facto, non parum offensi et contra virum Dei indignati dicuntur. S. autem Benignus, ut istam offensam aliquo grato délueret obsequio, famosum illud chronicon, quod *Psalterium Casselense* nuncupatur, inchoavit et composuit; in quo non solum totius Hiberniæ Monarchorum, sed specialiter Mumoniæ, acta, jura, prærogativæ, et successio censcribantur."—Colgan, Trias Thaum, c. 33, p. 205. If we are to assume that the Book of Rights practically represents and contains the substance of the Psalter of Cashel, the "right of a king" refers merely to the amount of food and supplies which he was entitled to receive from his feudatory chiefs. The Book of Rights is singularly devoid of any legal information or value whatsoever. If the author of this treatise was acquainted with the Psalter of Cashel, or the Book of Rights, it is difficult to understand how he has placed the feudal relation of the kings and their chiefs upon the taking of cattle and food rent, and not upon the receipt by the chiefs of the extravagant and fabulous gifts stated in the Book of Rights. The gifts represented in the Book of Rights, as presented by the King of Cashel to his feudatories, are, of ccurse, imaginary; but that a "king of companies" should take from the head king fifteen cumhals of cattle as his proportionate stock, and pay eight cows as the food rent of his house, is equally incredible. It would seem that both authors, each after his own fashion, were desirous of stating the relative positions of the King of Cashel and his under kings. The relation was created by the receipt by the inferior from the superior of some benefit, and a subsequent render of service in consideration of it. The actual transaction may have taken a merely symbolical shape, which the author of the Book of Rights has exaggerated in a poetic (?) form, and the author of this tract described in accordance with the usage prevalent among the lower classes. As there may be some who believe that St. Benean wrote the Psalter of Cashel, I do not rely upon the reference to that work as a conclusive evidence of the date of this tract.

have acted if placed in their position. If the over-lords had exercised this right it would have been very fortunate for the general body of the people, and the greater part of the annals would never have been written. The simplest explanation appears to be that the king could enforce the cultivation of the tribe-land in the ordinary course of customary husbandry. The third right is that "of lighting up religion, such as is found in the right (or law) of Adamnan."* The historical celebrity of the "Cain-Adamnan" arose from the rule exempting women from liability to military service; but this rule was only one of the clauses, and the reference here made seems to be to those enacting the performance of specified religious duties.

The rank of the king was regarded as official, not personal; if, therefore, he engaged in the labour fit only for a plebeian, he was for the time being reduced to the plebeian grade, and his dire fine assessed accordingly. The four occasions when he thus lost his status were when he used a clod-mallet, or a shovel, or a spade, or when he travelled alone. The reason for this latter rule is remarkable: "This might be the day upon which a woman alone (without witnesses) might swear her child upon a king a day upon which no one could give testimony but *herself* alone,"* a rule not devised for the protection of the moral character of the king, but to prevent the danger of the introduction into the family of the king of spurious bastards, and to guard against such mischief as was caused by the facility with which Shane O'Niel acknowledged all children attributed to him. In one other case the king lost his status, and was entitled to the "dire"-fine of a non-noble person: when in retreating from battle he was wounded in the back. Upon this point the author remarks, with characteristically trivial accuracy, that the rule did not apply when the weapon had passed through the body and came out at the back.*

The days of week are in this treatise portioned out to the various duties and pleasures of the king.* He abstained

* Page 335.

from labour on Sunday, but his "occupation" upon this day was drinking ale, and distributing it to others, "he is not a lawful Flaith who does not distribute ale every Sunday." Strange to say there is no allusion to any religious ceremonial, an omission the more remarkable as the author writes under evident ecclesiastical influence. The remaining days of the week were appropriated as follows: Monday to public business ("for causes for the adjustment of the people"), Tuesday to chess, Wednesday to coursing, Thursday to marriage duties, Friday to horse racing, and Saturday to announcing his decisions ("giving judgments"). Such a passage is ample proof how much of the details and arrangements in this treatise are purely fantastic. No one for a moment imagines that a king spent his time in the absurd routine here suggested; yet it is not, in our opinion, more imaginary than the preceding specification of the size of the houses and the amount of the furniture of the respective grades of society. Such a work as the present can be relied upon in its general results only; as to the numerical details we have no means of distinguishing which are imaginary and which are exact.

The king was responsible, both to his own people and to externs, for illegal or irregular seizures or requisitions; this appears in a negative form from the exceptions to his assumed liability. The three excepted cases are: (1) the requisition levied upon a rebellious and reconquered territory; (2) a requisition upon the members of his own tribe when an extern king was his guest; when there was an unusual demand upon his hospitality; (3) the seizure of dry cattle which have trespassed upon the tribe waste. In the two latter cases the cattle were to be restored, which proves that what the author was treating was not the return of (or payment for) the goods, but the consequences of their illegal seizure.

The duty of hospitality is strongly enforced upon the king; such is the meaning of the paragraph commencing, "There are three fastings which bring no offence to a king."* The fasting alluded to is not the fasting of the king, but the

* Page 337.

fasting of his guests; a failure in the duty of hospitality is only excused by the absolute want of the means of providing the necessary food; what we should express in one general term is here stated in the form of three special exceptions. At the conclusion of the tract, the author describes an Irish king sitting in state at the head of his retainers and court; and in the passage it is certain that he has omitted no detail which, in his opinion, enhanced the splendor, or testified to the power, wealth, and luxury of a Celtic prince of the period.* At the south end of the house, which must be understood to be a large four-sided hall, are posted the body guards of the king, four in number; these are not men of his house, or of his tribe, but broken, landless men, whom he had freed from dungeon or gallows, or from servitude of the lowest grade, men without tribe or home, who existed only as the hirelings of their masters; the man, whose life the king had spared in battle, was not considered as sufficiently in his power, "for he may lay hands upon him and kill him out of devotion *to his own chief or people*"—such a man could not be trusted, for he had a tribe and home to which he might return. The four guards surround the king—one in front, one in the rere, and one on either side; to secure the fidelity of these mercenaries, they are watched by another stranger, one of the hostages furnished by the subject tribes, or the under kings; it is easy to see that if this man was a hostage for the fidelity of his tribe, they in turn were securities for his personal fidelity to the king, to secure which, further, he was allotted land to the large amount of seven cumhals, equivalent to the honor-price and judicial value of an under king; he is seated by the guards behind to watch their actions. From the king's right hand, along the east wall of the hall, are ranged successively his guests, his poets, his harpers, flute-players, horn-blowers, and jugglers; opposite the king, at the other end of the hall, sits his champion, who would be described in an Eastern court as "his chief fighting man;" on the king's left hand, along the western side of the hall, are

* Page 339.

ranged his wife, his brehon, and his "saer"-tenants, or noble vassals; at the door is stationed a "man of deeds," to keep it; before the champion and the doorward is set up the spear of each "against the confusion of the ale-house;" close to the champion, in chains, stand the "unredeemed hostages," whose appearance in fetters was manifestly an essential portion of the spectacle. Having exhibited the king in fulness of his power and splendour, the author asks: "Which is greater, a king or a bishop? The bishop," he replies, "is higher, because the king stands up (*to salute him*), by reason of religion. A bishop, however, raises his knee to a king."*

The impression produced by the Crith Gabhlach as to the condition of the Irish people at the date of its composition, is very unfavorable. Their houses must have been small and ill-furnished; the length of the house of an "og-aire" is set down as seventeen feet—about the size of the cottage of poorer class of farmers of the present day—and the house of the head king is stated to measure only thirty-seven feet in length; from this we must conclude that the habits and mode of life of the upper and lower classes were very similar; the houses would seem to have consisted each of one room only; the description of a house, as having so many "beds," not rooms, in it, shows that they all slept in one chamber; the houses were wood, or wattle-work, of a very unsubstantial character; the back house so often alluded to was probably a detached kitchen; the furniture described is of the simplest nature, and in insignificant quantity; although some golden and silver articles are mentioned, there is scarcely an allusion to rich dresses, jewels, personal ornaments, or works of art; the ordinary diet seems to have been of the coarsest description; and it is remarkable that there is no allusion to wine throughout; the description of the king's court must be very much exaggerated, or the size of his house under-estimated, for it would be impossible to crowd into a room of thirty-seven feet in length, the number of persons detailed as forming his court and retinue; the

* Page 339.

want of refinement in manners is marked by the fact of the champion and man of deeds at the palace retaining their spears "against the confusion of the ale-house."

The old tribal organization continued to be the supposed form of their social system. We read of the king calling his people together for various purposes, and of the people themselves declaring the "Fenechus" law, but the universal system of commendation extending from the low "mbidboth" man to the king of companies (every one of whom received cows from a superior, and paid his food-rent), and the masses of non-free tenants who swelled the retainers of the "*flaith*," prove that the new system of personal relation was being rapidly substituted for the bond of tribal union; the tribe lands had been monopolized by the noble class; whether by grant or force, fairly or unfairly, is unimportant. The double process is summed in the Latin sentence—"Hæc ferè pascua data sunt depascenda sed in communi; quæ multi per *potentiam* invaserunt." As a natural consequence, landless men and "fuidhirs" abounded; the general instability is proved by the custom of hostages, and the presence of the foreign retainers who surround the king; and the rules, as to the maintenance of the wife of the mercenary soldier, show that the hired gallowglass, the curse of Ireland, was not unknown.

The Crith Gabhlach may be fairly characterized as the fantastic production of an antiquarian lawyer of a strong ecclesiastical bias, composed at a date at which the tribe system was breaking up, and the condition of the people, both moral and material, had much deteriorated. The work is of the highest value as an antiquarian treatise, rather on account of the general principles which it assumes, and the incidental statements which it contains, than from the accuracy of its classification, or the truth of its minute details; and any deductions founded upon a belief in its historical value must lead to conclusions involving the too common error of substituting an imaginary, for the actual, condition of a people.

XII.

Sequel to the Crith Gabhlach.

This tract deals with the same subject as the preceding, and can be advantageously considered in connexion with it. In the original manuscript no special title has been prefixed to the treatise, and for the purpose of the present volume it has been named the sequel to the Crith Gabhlach, implying that the subject dealt with in the preceding tract is further discussed in the present, but not that it was a work by the same author, or composed by another author as an appendix or continuation of the Crith Gabhlach; in the last section of the introduction it has been sufficiently shown that two different schemes for the sub-division of the rank of society are adopted by the respective authors, and that, so far from being complimentary, the latter tract is contradictory to the former.

The legal rights with reference to which the several ranks are classified by this author are specified by him as nine in number. As stated by the author, these appear to have been as follows:—(1) the greatest and least number of attendants brought by them to their cosherings upon their tenants, or accompanying them as their "company in the tribe"; (2) their feeding, probably the amount and nature of the food to be provided for them; and the amount of compensation to be paid to them under the following heads:—(3) for "esain"; (4) for wounding; (5) for insulting; (6) for the violation of their protection; and as (7) their honor-price; (8) also the obscure fines described as "blush"- and blister-fines; (9) and their exemptions before and after refections.* Although the classification may have been originally made with reference to these several heads, the detailed rights and duties of each class are very imperfectly stated, and all reference to some is wholly omitted. It is remarkable that to a large proportion of the classes specified the alleged grounds of the classification, certainly the greater portion

* By "exemptions" we should understand "privileges" in the full extent of the word; either special rights or special duties, the enjoyment or performance of which distinguished the individual from the general mass of the nation.

of them are inapplicable, and that there is not any reference made either to their proportionate stock and food rent, or the sizes of their dwellings, matters dealt with in detail by the author of the Crith Gabhlach. The twenty-six classes stated in this tract of the classes of this tract are enumerated downwards, that is, commencing with the head king, and proceeding downward to the lowest grade, but it is perhaps more convenient in considering them to adopt the inverse order, and to proceed from the unfree classes as the natural basis. The nine last classes are intended to comprise the individuals, not members of the tribe, either as originally unfree, or as having lost their original status; they are described as not possessing a holding, or talents, or followers, and therefore not worthy to form part of the assemblies, or companies *of refection,* nor entitled to "dire" fine, or to enter into securities or give evidence. They are evidently regarded not as servile, but unfree, having no status, and possessing in their own persons no legal rights; it would follow from analogy that their persons could be protected and their property secured to them only by the intervention of some member of the tribe, in whose "hand" they would technically considered to be.

When the definitions of these nine classes are considered it appears that they are not arranged with reference to their respective rights, for they are all described as possessing none, but rather with reference to the causes whereby they had lost, or did not possess, any recognised status, and that the nine classes are sub-divisions of one class, distinguished from each other by purely accidental circumstances. The ranks thus enumerated are as follows:—

(*a*) A "henchman,* a soldier of a good race"—the nearest to the hip of a leader when going to the meeting, who, with his wife, was entitled to free feeding, and a fine for certain injuries. This is clearly a description of the immediate followers of the King; either of the four personal attendants who surrounded him in his hall,† or of the mercenaries whose wives had sick maintenance in

* Page 353. † Page 339.

right of their husbands.* The description in the Crith Gabhlach of the class of persons with whom the kings surrounded themselves, proves that they were selected precisely because they were not members of the tribe, and, therefore, bound to the lord by simply personal interests.

(*b*)† The freeman who had "lost his patrimony, his lands, and his stock, and did not possess anything throughout the territory visibly or invisibly." By the loss of all his property the freeman lost also his status. This class must be distinguished from the "mbidboth"-man, the lowest class in the Crith Gabhlach, who, as having cattle lent to him by a lord, and paying food rent for his house, did possess a certain amount of property, however small, and therefore retained his status.

(*c*) A "cow grazier of a green,"† a term used metaphorically to express the case of the freeman who has lost his status, not from poverty, but by reason of disgraceful cowardice—a man dishonoured, as the Greeks expressed it, by having lost his shield; he is described as keeping his cattle within the green or enclosure near his house, and not daring to drive them out into the common pasture through fear of the wolves.

(*d*) A "Baitse"† tenant, of whom no description can be given except that contained in the text:—"A man who is not freed by profession or residence; that man does not belong to a company, who has not the deeds of a champion in him. He does not go security, nor is he a pledge with a chief or a church, because it is a sunbeam he is called."

(*e*) The fifth class is described as "a man matched with a bad wife, by whom he is rendered deranged and unsteady; such a person is defined as an "oinnit."† Extraordinary as are some of the definitions of the Brehon lawyers, it is impossible to believe that the author of this tract seriously intended to express what these words, in their plain and ordinary meaning, state, and not to suspect that an ancient and forgotten rule, either as to the origin or

* Page 331. † Page 353.

some specific acts of the wife, survives in this apparently absurd description.

(*f*) A "midhlach"* person, an effeminate, unwarlike man, a coward or an imbecile. As the coward has already been enumerated under the head of the "cow-grazier of a green," this class may more properly include idiots and imbeciles; the added words "so that he is the material of a victim to be given on account of the territory" (if the translation be correct), might mean that he was a very fit person to permit to be killed in expiation of a blood feud. The word "cimbid" admittedly means a man whose life is forfeited, "a victim," and the text appears to refer to his being utilized in this fashion, when it speaks of being or affording the "material for a cimbid."

(*g*)† A clown, mountebank, or buffoon, not a jester simply, but what we should call an itinerant tumbler, dishonoured because he "went out of his shape before hosts and crowds."

(*h*) A "rias-caire" man,† "a robber whom his race and family shun, a violater of 'cain' law, and of law, who goes from marsh to marsh, and from mountain to mountain," or as it is also explained, expressive of the latter fate of such an one, "a rath-builder who is enslaved to a chief and a church."

And lastly, (*i*)† The person described as "a crumb-fox, who gets the crumbs of all food natural and unnatural, whatever he crunches or eats is his;" by which may be meant a starving roguish outcast ready to appropriate and consume the fragments of other's victuals.

These descriptions of the unfree men throw a light upon the meaning and intention of the author's classification; he is not merely stating the legal grades and acknowledged ranks of society, but arranging the men of the society in which he lived, with reference both to their actual rank and supposed respectability, as he expresses it when he says that persons are estimated not only by form and race, land, tillage, and property, but also by their profession and worthiness. It is very natural to speak

* Page 353. † Page 355.

with contempt of cowards, fools, mountebanks, &c., but no one can contend that these various disreputable characters were acknowledged steps in the social hierarchy, which had its culminating point in the head king.

If a writer of our own day undertook to describe the various ranks of English society, and having commenced with the following:—"Tramps, housebreakers, acrobats, idiots, henpecked husbands, cashiered officers, insolvents, &c.," finally concluded with the "bishops, earls, marquises, dukes, the Lord Chancellor, and the Queen," we should understand that he had confused the ideas of legal rank and social respectability in a hopeless manner; and yet any such work, if preserved to a date at which a wholly different form of society had been substituted for that now existing, would be valuable to the antiquarian of the future as illustrative of the gradations of our society; but we may hope that enough of our literature will remain to prevent the occurrence of the mistake that insolvents and acrobats were ranks in society in the same manner as dukes, or that insolvents and housebreakers were permanent castes.

Bearing in mind the fashion after which the classification of the unfree persons has been constructed, let us turn our attention to the seventeen classes into which the free members of the tribe are divided. If we refer to the table in page cxcvii it will be observed that the ranks not common to both the systems of classification in this tract, and in the Crith-Gabhlach, are marked in italics. On examination, all these will appear to be grades of social respectability—not legal ranks—grades of respectability which gave those who possessed them substantial claims against the members of their families or third persons, or affected their compensation for wrong, but did not elevate them in the assembly above the other freemen, or entitle them to political privileges or grades in society arising from official position or public services.

These classes among the nobles are as follows:—(*a*)* the "aire-fine" the head of a "*fine*" (probably, as before sug-

* Page 349.

gested, the "geilfine-flaith"), a person of consideration and importance, as representing the members of the "*fine*," but no more forming a rank in the tribe than the head of a house as representing the several members of the household.

(*b*)* The "idhna"-person, who has a number of sons who are born to him, and of male relatives (or brethren) to the number of thirty champions. He is entitled to free living of five from his "*fine*." The key to the interpretation of this lies in his right to free living from the "*fine*." He must belong to a "*fine*," and there must be other households in the "*fine*," in which he should have his free feeding for four. His qualification was the possession of sons and brothers, warriors—thirty in all. He appears to have been the head of a household (or joint family) within the "*fine*," so numerous that the household allotment being insufficient to support them, a certain number were supported by the remaining houses of the "*fine*." A person, the head of a numerous household, would manifestly be one of much power and influence in the early stages of society.

(*c*.) The "ansruth"*-person is described as one "who protects his mansion and his land. He is allowed (lit. *For him is*) the wounding a person in each term of the year. He has no fewer than twenty (attendants) in an extern territory. He has free feeding for four on every side, and from every chief in his 'tuaith.' He is entitled to a trusty sword for his honor-price." As the "idhma" was entitled to support from the "family," the "ansruth" was entitled to it from the tribe. His position involves the wounding or slaying of his others, and his absence from the tribe-land with the accompaniment of a strong escort. His peculiar honor-price, the sword, indicated his office. He may be easily identified with the "aire-echta" of the Crith Gabhlach.†

* Page 349.

† The position of the champion or defender of a territory is well illustrated by the following passage of the Tain Bo Chuailgne:—

"Cuchulainn then asked his charioteer where the great road which passed Emania led to, and he answered that it led to *Ath na Foraire* (*i.e.* the Ford of Watching) at Aliabh Fuaid (a well-known mountain lying at the south of ancient Emania,

(*d*) The "dae"-person* is described as one "who for another goes to fight his battle, when he has no help of his family." The position of this person is determined by his relation with neither the family nor tribe, but with some third person or persons, whose quarrel he has espoused. His position resembles that of a patron with a client, or a chief to whom a poor and oppressed man commends himself. Perhaps the description is intended to apply to the leader of hired gallowglasses, the condottiere of the period, which interpretation is rendered probable by the phrase, "he is entitled to free feeding and *that of his soldiers.*"† A character of this description, undoubtedly, never formed one of the normal ranks of the ancient tribe.

in the present county of Armagh). 'Why is the ford called the Ford of Watching?' said Cuchulainn. 'Because,' said Ibar, 'there is an Ultonian champion constantly watching and guarding there, in order that no warriors nor foreigners should unperceived enter into Ulster, without being challenged by him to battle; and the champion must answer for any such challenge on the part of the whole province.' 'Do you know who is at the ford to-day?' said Cuchulainn. 'I do, indeed; it is the valiant and victorious Conall Cearnach, the Royal Champion of Erinn,' said Ibar. 'Well, then,' said Cuchulainn, 'you drive on until we reach that ford.'"—*Translated by Mr. O'Curry.* "*Manners and Customs of the Ancient Irish*," vol. ii., p. 365.

* Page 349.

† He, whose cause the "dae"-person asserted, can scarcely have been a private individual, if any system of tribe law whatsoever existed, nor again can we understand a private individual supplying free feeding to him and his soldiers. The employer of the "dae"-man and his mercenaries must have been at least a tribe chief, and the sentence, "when he has not the help of a family," expresses the independent position towards his tribesmen, which a chief enjoyed who had secured mercenary support. The "dae"-man would thus be the leader of the mercenary guard, or head of the housecarls of a chief. Such bodies of men were called "*Lucht Tighe*," or Household Troops. The *Lucht Tighe* of Tadhy O'Kelly, King of Hi Mainé, in Connacht, and of Ferghal O'Ruairc, King of Breefney, were conspicuous at the battle of Clontarf, A.D. 1014. In 1593 Hugh M'Guire, Lord of Fermanagh, marched to battle with the people of his own territory, and a body of "*Amhuis*," or mercenary household troops drawn from other territories or countries. The regular organization of these household troops, or bodyguards of the chieftain, appears from the names of divers places; for example, we know that there was anciently a district in Monaghan called *Lucht Tighe mhic Mathgamhna*, that is, MacMahon's Household, because it was exclusively devoted to the maintenance of the chief's household troops, who thus "were entitled to free feeding on all sides."—*O'Curry.* "*Manners and Customs of the Ancient Irish*," vol. ii., p. 391-2.

The three classes of the (*e*) "ogflaithem," (*f*) "lethflaithem," and (*g*) "flaithem of one vassal,"* are merely sub-divisions of the poorer "flaiths," with reference to their income, the amount of which naturally depended upon the number of their tenants; but there is no reason to believe that the rights of a flaith were measured in accordance exactly with the number of his tenants. Undoubtedly the "flaith," who had a large number of tenants who swelled the train of his retainers, and paid him food rent, which enabled him to support others, was a much more important person than the "flaith" with few tenants, and that poor broken-down "flaiths" with one, two, or three old tenants were very little, if at all, above, in public consideration, the cow-owning churl, who was rising into the noble class.

It appears from a passage in the last tract published in this volume that the descendant of "flaiths" might fall back, under certain circumstances, probably the want of qualifying wealth, into the non-noble class;† but there are no grounds for considering that the "flaith" below the aire-tuisi were legally divided into ranks in the exact ratio of their fortune. The differences as to this point between this list and that contained in the Crith Gabhlach are very instructive as to the mode in which these detailed enumerations were composed, and the reliance to be placed upon their numerical statements. In both lists the bo-aire takes the highest position among the non-noble classes; and the ranks above that are "flaiths" or noble; the entire body of the "flaiths" below the rank of the "aire-ard" (or that of aire-echta?) are included, according to the scheme of the Crith Gabhlach, in the rank of the "aire-desa"; if the four classes of the "aire-fine," "idhna"-person, "ansruth"-person, and "dae"-person, be struck out of this list as not representing classes properly so called, the three remaining classes of the "ogflaithem," "lethflaithem," and "flaithem" of one vassal remain, who must fall within the class of the "aire-desa," as defined by the Crith Gabhlach; but the qualification of an "aire-desa," as defined in the Crith Gabhlach, was eleven tenants, and

* Page 351. † Page 381, l. 9.

he was entitled to feeding for ten couples. It is evident therefore that many of the "aire-desa" class cannot have had the wealth specified in the Crith Gabhlach as the qualification for that rank, and that, despite the diminution of their wealth, they still continued "flaiths," as long, if we rely on the statement in this tract, as they had a single vassal. This is perhaps what is implied in the definition in this tract of the "aire-desa," as "a man who had preserved the patrimony of his father and grandfather in the same condition as he had found it before him, and who accumulates."* The name in this tract of "flaithem" of one tenant may, probably, at the date of this tract have been equivalent to the French term of the last century, which described a very impecunious nobleman, as the seigneur of a duck pond, the smallest conceivable amount of real estate which enabled him to assert his position as a seigneur. The "uaitne" person, as described in this tract, might be supposed to represent an office, and not a class, but it is clear that there must be interposed between the "bo-aire" and the members of the unfree classes, a class representing the freeman without the full property qualification of the "bo-aire," and the amount of the honor-price of the "mbedboth" and the "uaitne" man being identical, there are sufficient grounds for considering the two names as different designations of the same class.

It is important to submit the schemes of rank contained in these two tracts to close examination, as the apparently anomalous character of the Irish tribe has been chiefly produced by the assumption that the Crith Gabhlach should be admitted as an exact and historical document, and its numerical statements received without reserve as truthful representations of existing facts; so long as this mode of treating the Brehon Law tracts holds its ground, the ancient Irish tribe system must continue to be considered, as it has unfortunately too long been imagined, as an exception and an anomaly, a maze of technicalities incapable of disentanglement.

The tract next proceeds to deal with the ranks of the

* Page 349.

learned professions, before enumerating those of the church; the mode in which the various ranks in the several scales are considered equal to each other, and a harmony attempted to be established throughout, appears in the following introductory passage:—"The distinctions (or titles) of wisdom (literary professions) now are different from the titles of the laity, because it is a "cumhal" of increase of honor-price, which each grade of the church takes, from the lighter *of candles* up to the psalm singer. It is by seds, however, the increase of the "*fine*" grades and poets progress from low to high. Their proof and their denial too correspond; "a bishop and a king, the origin of all chiefs," &c.*

The classification of both the Ollamhs and poets is plainly merely an exercise of the imagination; the epithets and ranks are founded upon conceits, analogies, and plays of works, and there is no practical information to be gleaned from them. Upon the other hand, the discussion as to the "dire"-fines of ecclesiastics is one of the most interesting passages of the Brehon Law tracts, as illustrating the period between the break up of the Columban system and the institution of a regular episcopal hierarchy. The discussion upon this subject commences with the following extraordinary passage:—

"What is the highest dignity on earth? The dignity of the Church. What is the highest dignity which is in the Church? The dignity of a bishop.

"The highest bishop of these is the Bishop of Peter's Church, because it is under his subjection the chiefs of Rome are; and they are not under the subjection of anyone who has not virginity, or repentance, or lawful espousal; and it is to him that seven cumhals are payable for every degree of the seven degrees (or orders) that are upon him, if there be eric-fine for him at all; if not 'eric'-fine, *there is to be the* death of a person for it.

"Where is this *to be found?* It is in the tract which Augustine wrote about the degrees of the Church, and of their dire fines; and of their non-feedings, and the particular

* Page 355.

law of the church of Peter, and the emperor of the whole world."

The scheme upon which the cleric are arranged is a double gradation partly connected with the orders in the church, and partly in connexion with the religious condition of the individual. It is needless to observe that the moral and religious merit of the individual is referable solely to the one virtue of continence; but it is certainly surprising that the author arranges all classes of the church, inclusive of the recluses into the three classes of virgins, married, and repentant. Every fine must, therefore, be the result of three quantities:—the official position, the moral state of the injured cleric, and the nature of the injury inflicted. It is impossible to construct in a tabular form the amount of compensation payable in each case, as the results stated in the text do not all coincide with the theory on which they are professed to be calculated. The general principle, however, is clear, viz.:—that the full amount calculated upon the rank of the injured cleric, and the nature of the injury, is payable in the case only of the cleric being a virgin; this amount is reduced by one-third if the cleric be married, and again by another third if he be penitent;† and that between

* P. 363. Can the author of this passage have heard of the "De Civitati Dei," and conceived it to be a work of the character of the Crith Gabhlach?

† The penitence of the bishop may be referable to unchastity, either before or after his consecration. That charges of this description might be brought against a bishop, however eminent, appears from the Confession of St. Patrick: "Post annos triginta invenerunt me, et adversum verbum quod confessus fueram antequam essem diaconus. Propter anxietatem mesto animo insinuavi amicissimo meo que in pueritiâ meâ unâ die gesseram in uno in unâ horâ; quia nondum prevalebam nescio, deus scit; et habebam tunc annis quindecem et deum vivum non credebam, neque ex infantiâ meâ sed in morte et incredulitate mansi donce valde castigatus sum, et in veritate humiliatus sum a fame et nuditate et cotidie contra hiberione non sponte pergebam, &c.—"National MSS. of Ireland," Vol. II., Ap. III.1.

The Brehon lawyers evidently contemplated the case of a bishop falling into sin: "There are four dignitaries of a territory who may be degraded: a false-judging king, *a stumbling bishop*, a fraudulent poet, an unworthy chieftain who does not fulfil his duties. Dire-fine is not due to these" (ante, Vol. I., p. 55). See also the gloss upon this passage, the meaning of which is clear, although the translation is questionable. It may be inferred that the sinful and unrepentent bishop suffered a "diminutio capitis," as did the king when engaged in servile occupations.

the payments on account of injuries to clerics of various ranks, there is to be made a deduction of one cumhal for each grade in the ecclesiastical orders. It is very doubtful if the seven grades referred to in the text are the same as the usual ecclesiastical orders, as the clerical student and the recluse would seem to be included in the computation. The author appears to have considered that, in some cases of exceptional iniquity, the process of compensation by eric-fines was insufficient.

"What is the penalty (lit. *debt*) of wounding a virgin bishop? Three victims (cunidh) are to be hanged for every hand that wounded him; half the debt of wounding is paid for insulting him." "*As to* every person who sees, and who does not protect him by all his strength, by all his deeds, and that the guilty person escapes, it is seven cumhals *that are to be paid* for his sick maintenance and his eric fine."* Again—"So it is with every grade of virginity until it comes to the case of a virgin cleric, so that there are seven 'cumhals' for wounding him, or a victim."†

These passages prove that the author not only imagined that an aggravated injury of this class would entail the punishment of the guilty parties, but would also require "blood" expiation. These passages explain the expressions used in reference to the "midhlach" person in this treatise, viz., that he would naturally afford the material for a victim. Such a mode of punishing or avenging crime is inconsistent with the whole tenor of the Brehon law, and perhaps indicates that the author was a cleric, or of clerical sympathies, who enunciated principles for the benefit of the church which never formed portion of the customary law.‡

* Page 363. † Page 365.

‡ The doctrine of the early Irish Church of the necessity of blood-shedding as an expiation for blood is fully set out in the poem of Dubhtach Mac ua Lugair, supposed to have been recited in the presence of St. Patrick, and under the immediate inspiration of the Holy Ghost:

"The truth of the Lord,
The testimony of the New Law,
Warrant that Nuada shall die; I *decree* it.
Divine knowledge, it is known, decides
(To which veneration is due),

The following passage is remarkable as a proof of the religious ideas which existed at the date of the composition of this treatise:—

"There are three kinds of recluses in a church, *i.e.*, a lay recluse, upon whom a soul-friend pronounces his character *of approval*, and who goes to the sacrament, who is in the true unity of the church, without power of foot or hand. It is as a grade of virginity he is paid *fines*. He is of equal 'dire'-value with a virgin clerical student; so that there are seven cumhals for wounding, and he is of equal 'dire'-fine with him in every dignity besides, and shedding of blood, and white blow.

"A lay recluse upon he pronounces his character, who does not go to the sacrament, it is but two-thirds he reaches to the first lay recluse.

That each man for his crime
Shall depart unto death."——
"There was in the First Law of the men of Erin
That which God has not vouchsaved in His New Law.
The Trinity did not vouchsafe mercy,
Through heavenly strength to save Adam,
For it was perpetual existence
God gave him of His mercy,
Until otherwise he merited
By deserving death.
Let every one who kills a human being;
Even the king who seeks a wreath with his hosts,
Who inflicts red wounds intentionally,
Of which any person dies;
Every powerless insignificant person,
Or noblest of the learned;
Yea, every living person who inflicts death,
Whose misdeeds are judged, shall suffer death.
He who lets a criminal escape is himself a culprit;
He shall suffer the death of a criminal.
In the judgment of the law, which I, as a poet, have received,
It is evil to kill by a foul deed;
I pronounce the judgment of death,
Of death for his crime to every one *who kills*.
Nuada is adjudged to Heaven,
And it is not to death he is adjudged."

'It was thus that the two laws were fulfilled; the culprit was put to death for his crime, and his soul was pardoned and sent to heaven. What was agreed upon by the men of Erin was, that every one *should be given up* for his crime, that sin might not otherwise increase in the island.' Ante, Vol. III., pp. 11–13 & xx–xxiv.

"Another lay recluse is he who puts bounds to his passions, and who goes to the clergy this day, upon whom a soul-friend does not pronounce his character, or recommendation. To *the extent of* two-thirds he reaches unto the middle lay recluse."

"A person should not wonder that there should be an equal "dire"-fine for the lay recluses who are without virginity, if they be beloved of God, and their works great, if their miracles are as numerous, or if they are more numerous in the same way that Peter and Paul were to John, and in the same way that Anthony and Martin were; ut dixit Sciptura, "ubi habundabit dilechtum, super habundabit gratia."*

The author manifestly regards St. Peter as having been a married man, and, with reference to Paul, puts a well-known construction upon the twelfth verse of the ninth chapter of the First Epistle to the Corinthians.

The peculiar views put forward in this tract as to the position and duties of the clerics are remarkable, and are of importance in fixing an approximate date for the composition of this tract. The bishop, not the abbot, is the highest known ecclesiastic, indeed of the abbot there is no mention whatsoever; the marriage of the clerics is assumed as permissible, although discountenanced, inasmuch as the married cleric thereby to a certain extent lost caste, as proved by the proportionate diminution of his "dire"-fine; the recluse is treated as an acknowledged order in the Church, and he is intimately connected, for the purpose of the amount of his "dire"-fine, with his soul-friend ("anmchara"); the Pope was recognized as the highest bishop of the Church, and as ruling over Rome; and in the reference to the imaginary work of St. Augustine, there is an allusion to "the emperor of the whole world." These indications point to the transitional and obscure state of the Celtic Church after the breaking up of the Columban monastic system, and before its complete reorganization under continental influence, to the latest period of the existence of the Culdees, a remarkable era in Celtic ecclesiastical history, which has been lately

* Page 367.

fully dealt with, so far as the scanty existing materials permit, by Mr. Skene.* The allusion to "the emperor of the whole world" may help in some degree in fixing the date of the work. A Celtic pilgrim returning from Rome would state the impressions which the existing state of facts produced upon him; he certainly would not be influenced by the legal theories of the civil lawyers; the abstract idea of the all-ruling emperor would not occur to him unless the power of an existing emperor were brought home to his mind by what he saw with his eyes and heard with his ears among the public of the city. A pilgrim to Rome during the interval between the disappearance of the influence of the Eastern emperors and the date at which the Culdees finally ceased to exist, could have his attention drawn to the imperial power, as a universal dominion, only at two distinct periods—either during the reigns of Karl the Great and his son Ludwig, that is, between A.D. 800 and A.D. 840, or after the resuscitation of the imperial power by the Emperor Otto in A.D. 951. The expression of the Bishop of Peter's Church "having under his subjection the chiefs of Rome" (unless this be merely a Celtic phrase expressing sovereignty), would exactly describe the position of the Popes after the later date. This would point to the end of the tenth or beginning of the eleventh century as the probable date of the composition of this tract.

From these, and the various remarkable points of difference between this tract and the Crith Gabhlach, already alluded to, it may be inferred that the present treatise is the more ancient of the two, and represents an older condition of Irish society. A considerable portion of it, so much as deals with ollamhs and poets, is purely fantastic, full of the false discussions and quibbling classification so much in vogue with Brehon lawyers, and valueless except as a monument of misspent time and ingenuity; another portion, so much as deals with the clerics, although most valuable from an historical point of view, cannot be considered as a practical statement of existing law, but rather as a covert

* "Celtic Scotland," vol. 2, chap. vi. and ix.

attempt to introduce legal innovations in favour of the Church; the residue, which treats of the classes of the tribe, is most valuable in every respect, although in dealing with it, and discussing the principle of the scheme upon which the ranks of the tribe are classified, it cannot be forgotten that it was written by the author of, or at least has been combined into one production with, the two latter divisions of the work.

XIII.

Succession.

The last tract contained in the present has no heading or title in the original; it has been named, for the purpose of reference, as a treatise on "Succession," inasmuch as that is the subject which the author proposed to discuss. This work is of the fragmentary character, being nothing more than a collection of unconnected extracts or references, thrown together in a note-book as the materials for an intended work.

To this tract there is prefixed the following extraordinary head-note :—"By this book, if I can, in the name of God, I will bring the senior before the junior in every case, as these laws down here state. Beyond this I will make an intermixture of their law altogether."*

The object of the work was not to state what were the customary law upon the subject dealt with, but to collect authorities in support of an argument in favour of succession by descent and seniority, and, it may be gathered, in opposition to the rules regulating it by personal merit, property qualifications, or election. The author must, for the purpose of extract and reference, have had before him a considerable number of works, which it would be now difficult to ascertain or identify. As to the passage near the commencement of the tract, concerning the succession of an abbot,* it appears that the authority referred to is the concluding paragraphs of the Senchus Mor with the present annexed commentary.†

Although from its form, and the obvious intention of its

* Page 375. † Vol. 3, page 79.

composition, this work is unsatisfactory and of no authority, many of the extracts contained in it are both interesting and important. Many of them support the doctrine that the grade of an individual in the tribe was originally fixed with reference to property, and that the loss of the qualifying amount of property involved a *diminutio capitis*; *e.g.*, "Qualification is nobler than age."*

"The senior does not go before the junior, unless he be wealthier."*

"'A king without property is no king,' *i.e.*, as to tenants and kine."†

"'No unproductive person merits a share with the Feini,' *i.e.*, the person who is barren, without property, without worthiness, does not merit a noble share of 'smacht'-fines or sick attendance, according to the 'Fenechus'-law."‡

"'Let no wandering men pass judgment,' *i.e.*, there shall be no honor-price for the person who is wandering about without property."‡

"The inferior man with property is put into the land, or the chieftainship."

Other extracts accord more permanency to the status of a noble when once established. The "aire-forgaill" chief deserves a chieftainship or an abbey," even though he had but his arms or his raiment, he shall have the honor-price of a king, or of an "aire-forgaill chief"; to which statement the author prefixes the remark—"I wonder at this," and possibly considered it bad law.§ Other extracts prove that among the Celts, as elsewhere, the claim to the hereditary transmission of property and office was gradually assuming legal form:—

"The son of an abbot in the present church,
"*A fact established by sense*,
"The son of the husbandman in the territory,
"The son of the king to bind the hostages."§

This is obviously a verse of some composition intended to favour the hereditary succession to the coarbships of the

* Page 377. † Page 381.
‡ Page 387. § Page 383.

greater monasteries, and even to inferior but profitable offices.*

* "In the monastery of Lusk, in the list of the abbots, between the years 731 and 927, we find that the second and third abbots were brothers, and sons of the first abbot named in it; that the fourth abbot and the prior were brothers; that the son of the second abbot was 'economus,' or house-steward; that the fifth abbot was son of the third; that the eighth abbot was son of the sixth; and that the tenth abbot and the Bishop of Duleek and Lusk were brothers, and sons of the eighth abbot. Again, in the monastery of Gleann Uissean, near Carlow, we find, between 874 and 1016, the names of eight abbots and one *Aircinnech*, or Erenagh. Of these, the second and third are brothers, and sons of the first; the fourth and fifth are brothers, and sons of the third; the sixth was foster-son to the second, while his son was *Aircinnech*, or Erenagh; the seventh abbot was son of the fourth, and the eighth grandson of the second. Here the whole are direct descendants of the abbot who died in 874. Thus we find that the office of 'economus,' or house-steward of Armagh, was hereditary from 779, when the death of Cearnach, son of Suibhne, who was bishop of Armagh, is recorded, when he is called economus of Armagh. He is succeeded by three sons, one after the other. His grandson, by the third son, is bishop and anchorite of Lann Leire. The son of the latter is abbot of Lann Leire, and 'economus' of Armagh, whose son again is abbot of Lann Leire. But, perhaps, the most instructive example is connected with the celebrated monastery of Clonmacnois. Torbach, abbot or primate of Armagh in 812, was the son of one abbot of Louth, and the father of another abbot of the same place, and from him descended a family who filled many offices connected with Clonmacnois, and among them we find that even anchorites married, and were succeeded by sons. The family were called the *Cinel Torbaegh*. Their connexion with Clonmacnois began with his son Aedhagan, who died on his pilgrimage at Clonmacnois in 834; and his son Eoghan, the anchorite, who died in 845. Eoghan's son, Luchairen, scribe and anchorite at Clonmacnois, died in 863; and in 893 his son, Egertach, the *Aircinnech*, or Erenach of Eaglais-Beg, or the little church of Clonmacnois, died. In 947, the son of the latter, Aenagan Erenach, of the little church, and bishop and pure virgin—that is, unmarried—died; and in 953 his brother, Dunadhach, bishop of Clonmacnois, whose son, Dunchadh, *Ferleighinn*, or lector of Clonmacnois, and its anchorite, afterwards head of its rule and history, died in 1005. He was father of Joseph, who was *anmchara*, soul-friend or confessor of Clonmacnois. Joseph's son was Conn *na-mbocht*, or of the poor, who appears in the "Annals of the Four Masters," in 1031, as "Head of the *Cele De*, and anchorite of Clonmacnois, and who invited a party of the poor of Cluain at Isael Chiaran, and who presented twenty cows of his own to it. And Conn was father of Maolchiarain, Coarb of Ciaran, or abbot of Clonmacnois. It is unnecessary to follow this further; but it is obvious how prevalent at this time in Ireland was the marriage of the clergy of all classes, and the perpetuation of their ecclesiastical offices in the lines of their descendants, and that it had even broken down the asceticism of the anchorite, and the canonical rule of the *Cele De* in this respect. In Scotland we find that the territory of the old monasteries was called *Abdaine*, or Abbacy, a word represented in Latin by *Abbatia* or *Abthania*, and had, to a great extent, passed into the hands of laymen, who often retained for several

The most important extracts here contained have reference to the rule of three descents, before referred to, which determined the status of an individual with reference to that of his father and grandfather, viz. :—

"He is a disease of evils after three persons."*

"He is a hill of chieftainship in the third person."*

"For it gives a prescription of acknowledgment; three heirs have succeeded one another."*

generations the name of abbot. The territory termed the Abthania of Dull, which was of great extent, and included the modern parishes of Dull and Fortingall, seems to have been in the hands of Crinan, the lay abbot of Dunkeld, and, along with the possessions of the latter abbacy, must have placed him on a par as to power and position with the great Mormaers of Alban."—Skene: Celtic Scotland, Vol. II., p. 341.

The causes and the results of the marriage of clerics in Ireland and Scotland is thus stated by Mr. Skene:—

"In the early Monastic Church of Ireland celibacy was enforced upon at least one class of the monks, for the saints of the second order refused the services of women, separating them from the monasteries; but still there was a succession to the abbacy, the tribe or family in whom it was vested providing a fit person in Orders to fill the office; but when the stringency of the monastic rule was broken in upon, under the influence of the secular clergy, marriage was gradually permitted and connived at, and at length became general, the rebound toward a secular state being great in proportion to the enforced strictness of the previous system. The natural consequence was that a direct descent from the ecclesiastical persons themselves came in place of the older system of succession, and the Church offices became hereditary in their family. The next step in the downward process was that the Abbots and Superiors did not take Orders, and became virtually laymen, providing a fit person to perform the ecclesiastical functions, but retaining the name, and all the secular privileges and emoluments of the abbacy. The performance of the Church service was either intrusted to a secular priest, who was called the 'sacerdos,' or *sagart*, or it fell to the *Cele De*, when there was such a body connected with the monastery, or to both combined. The great ecclesiastical offices thus became hereditary in the persons of laymen in two ways—either by the usurpation of the benefice by the lay chieftains from whose family it had been supplied, or in the family of the abbot by whose direct descendants the office was filled. It must be borne in mind that prior to 1139, though celibacy was enforced upon the monks by the monastic rule, and upon the clergy generally as a matter of discipline, marriage, when it did take place, was not unlawful. It was not until the second great Council of Lateran, held in that year, declared all such marriages *ipso facto* null and void that they became so; and the effect of this, where the benefice had become hereditary in a particular family, was, instead of restoring the former clerical character of its possessor, to stereotype their condition of laymen, and to convert them into a purely lay family."—"*Celtic Scotland*," vol. ii., p. 338.

* Page 379.

"They were once noble, *i.e.*, unless his father and grandfather were chiefs, though he may be of the same race; as to his origin, his chieftainship is lost to him."*

"'In which it is stated, that a chieftainship is lost,' *i.e.*, during the ages of three persons."*

"'A plebeian chief,' *i.e.*, one of plebeian race, whose father or grandfather was not a chief."*

"Question.—What is the 'ansruth'-poet? His father and his grandfather were 'ansruth'-poets; for every grade whatsoever, whether chief or poet, if he parts with his qualifications during the ages of three persons, his lot is not equal to those who are found in possession of their qualifications during the ages of three persons, until they double their qualification or their service."†

These extracts clearly prove the rule before referred to, that the possession of the necessary property, through three generations, was requisite to give the complete status of the rank to which the qualification was annexed; and that, taking a negative form, the rule was applied to the case of those who lost the qualifying property necessary for their rank, and that the third in descent in such a case lost his status absolutely, and fell into a lower grade.

But if a person acquired double the amount necessary to qualify him for a higher grade, he became a fully recognised member of that grade irrespective of descent. This explains the rule in page 317, which fixes the amount of stock requisite in the case of a "bo-aire," adjoining the rank of an "aire-desa," as double the qualification of the latter rank. The amount specified in this passage was that requisite to make the "bo-aire" a complete "aire-desa," and it may be inferred that if he acquired the amount of an "aire-desa's" qualification, he became an "aire-desa" *sub modo*. And in the same way if an "aire-desa" lost his qualification, the status of that rank was not absolutely lost until after the death of himself and his son, when his grandson absolutely passed into the lower grade. This partial acquisition of status in the first generation, and its completion in the third

* Page 387. † Page 383.

generation constantly appears in ancient laws. Thus among the Scandinavians there were the three gradations of the Frigiven man, his son, and his grandson, the Bondr.* In the Sachsen Spiegel, the rule is thus expressly laid down:—"Si qui in quatuor suis generationibus, hoc est ex duobus avis et duobus aviis, ac patre et matre indiffamati juris est, illum in jure nemo infamare potest." The same principle is marked in Roman law by the specific names for each step in the progression toward complete citizenship, viz.:—Libertus, Libertinus, and Liber; and explains the passage in the speech of Appius Claudius Crassus, contrasting the full patrician with the ordinary Quirite:—"An hoc, si Claudiæ familiæ non sim nec ex patricio sanguine ortus sed unus Quiritium quilibet, qui modo me duobus ingenuus ortum et vivere in libera civitate sciam, reticere possim."†

The first phrase quoted from this tract is remarkably expressive, "He is a disease of evils after three persons," meaning that when the father and the grandfather have been evil, the fulness of the sins are developed in the grandson; this is precisely the expression of Demosthenes, *πονηρὸς ἐκ τριγονίας*,‡ and gives the full point to the line in Sophocles:—

Θάρσει. σὺ μὲν γὰρ οὐδ' εἶν τρίτης ἐγὼ
μητρὸς φανῶ τρίδουλος, ἐκφανεῖ κακή.§

To acquire the full rights of an "aire-desa," the "bo-aire" must have qualified himself by the possession of land held by his tenants, although he could acquire a qualified nobility founded upon the possession of cattle simply.

"The law styles that person a plebeian chief (a flaith-aithech) who desires to obtain a chieftainship in right of any other property, except in right of (other than) tenants; and by tenants is flesh meat supplied to the chief;" and again "that these kings are not entitled to anything in right of their property, *i.e.*, their cattle."‖

* Robertson: "Scotland under her Early Kings," Vol ii., p. 322.

† Livy: Lib. vi., c. 40.

‡ Dem. 1327. 3.

§ O. T. 1062. For the references the Editor is indebted to Mr. Hearn's work, "The Aryan Household."

‖ Page 383.

The qualification, therefore, of the chief, as founded upon the possession of land, had no reference, apparently, to the value of the land, or what would be now called his annual income, but was based upon the number of tenants upon his land, and the amount of their food rents; that is the number of his retainers made up of his tenants and the other followers, whom the food rents of his tenants enabled him to maintain.

The right of acquiring rank in the tribe founded upon the acquisition of property must, of course, be understood as applicable only to free members of the tribe themselves; as in all early communities the freedom of the tribe and the right to acquire or enjoy a portion of the tribe lands may be taken to have been practically identical.

The several tracts contained in the present volume have been collected from the following sources:—

(A.)

Dín Techtugad; or, Of taking Lawful Possession of Land. Translated by Dr. O'Donovan. Vol. I., pp. 91–123, of his official translation, and extracted by him from T.C.D., E 3, 5, and H 3, 17.

(B.)

Bretha Comaithchesa Anfoss; or, the Judgments of Co-tenancy. This tract is described by Dr. O'Donovan as "Judgments of Co-tenancy," and was translated by him. Vol. I., pp. 1–90, of his official translation, and extracted by him from Rawlinson, 487, and T.C.D., E 3, 5, and H 3, 18.

(C.)

Bech Bretha; or, Bee Laws. Translated by Dr. O'Donovan. Vol. I., pp. 346–382, of his official translation, and extracted by him from H 2, 15, T.C.D.

(D.)

Coibnius Uisci; or, Right of Water. This tract is described by Dr. O'Donovan as "Of Water Mills, Mill Races," &c., and was translated by him. Vol. I., pp. 383–399, of his official translation, and was extracted by him from H 2, 15, T.C.D.

(E.)

Maigne; or, Precincts. Described by Dr. O'Donovan as "Of the inviolable space which surrounded every man's residence,

according to his rank or dignity," &c., and translated by him. Vol. VII., pp. 2777–2786 of his official translation, and extracted from Egerton, 88, 54, a.a.

(F.)

Do breitheamhnus, &c.; or, "Of the Judgment of every crime," &c. Translated by Mr. O'Curry. Vol. VI., pp. 902–904, of his official translation, and extracted from H 3, 17, T.C.D.

(G.)

Téd an fearann a cinntaibh; or, "The Land is forfeited for crimes." This was translated by Dr. O'Donovan. Vol. V., pp. 2320–2369, of his official translation, and extracted from Egerton, 88, 22, b.a.

(H.)

Fodla tire; or, "The Divisions of Land." This was translated by Dr. O'Donovan. Vol. IV., pp. 1251 to 1253, of his official translation, and was extracted by him from H 3, 18, T.C.D.

(I.)

De fodlaibh cineall tuaithi; or, Of the Divisions of the Tribe of a territory. This was translated by Dr. O'Donovan. Vol. I., pp. 268 to 277, of his official translation, and extracted by him from H 2, 15, T.C.D.

(J.)

Crith Gabhlach. The Crith Gabhlach. This was translated by Mr. O'Curry; his first translation appears in Vol. I., pp. 1–76, of his official translation; his revised translation is paged as pp. 2340–2400, and the text was extracted by him from H 3, 18, 252, T.C.D.

(K.)

The sequel to the Crith Gabhlach, described by Mr. O'Donovan as an unnamed tract of the different ranks of society and privileges translated by him. Vol. IV., pp. 1300 to 1314, and extracted by him from H 3, 18, T.C.D.

(L.)

An unnamed tract, entitled by the editors, "Succession." Described by Dr. O'Donovan as a Tract on the law of Succession, or paths of Judgment. Translated by him. Vol. V., pp. 2199–2220, of his official translation, and extracted by him from Egerton, 88.

SYNOPSIS OF INTRODUCTION.

I. The present volume of tracts selected as illustrating the land laws of the early Irish, and the constitution of the Celtic family and tribe, p. i. Whatever abstract legal propositions the Brehons possessed to be found in the tracts. First inquiry, whether there is an authentic archaic text, p. viii. Composition of original Brehon text, p. x. Principle on which a translation ought to be based, p. xi. Method adopted by editors in dealing with the text, p. xii.

II. On taking Lawful Possession.—A consecutive treatise dealing with the symbolic ceremonial by which an action for recovery of land was instituted, p. xiii.; exhibits the mode in which the judicial authority of the Brehon arose, and the series of legal fictions necessary to bring a defendant into court. The authority of the Brehon the same as that of the judges in other Aryan tribes. The Brehon system an instance of archaic survival. The Celtic Irish never formed town communities, p. xiv. All judicial authority derived from a system of voluntary submission to arbitration. The origin and theory of judicial authority in primitive communities reconsidered. "Custom" defined as the acquired habits of any human community, p. xv. Jurisdiction of judges gradually established by a series of fictions. Quarrels begin to be submitted to arbitration of tribe, p. xvii. Method of bringing suit into court, p. xviii.

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The case of Ninne, the son of Matech, considered. The Brehon procedure for recovery of land described, p. xxiv.

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female claimant. The leading case of the woman Ciannacht. Seven exceptions to the ceremonial of laying claim to land, p. xxix. Highly improbable that the ancient ceremonial was exclusively applicable to lands let on rents, p. xxxi. The procedure further described. The system of counter-claim, p. xxxii. Amount of fine paid by unsuccessful claimant. Discussion of the term "coibhue," and the various classes of tribe lands, p. xxxiii. Definition of "raitech" persons divided into three classes, p. xxxvi. Horses used at first exclusively in the symbolical entry, cows afterward substituted from necessity. Forms of procedure ended with reference of dispute to arbitration, p. xxxvii. Allusion to the mode in which a dispute is decided in an Indian village community. Mr. Wallace's description of a meeting of a Russian Mir to assess taxation, and divide village lands referred to, p. xxxviii. Judicial development among the Irelandic Norse. The procedure detailed in two trials before the Althings, related in the Sagu Burnt Njal, p. xxxix. The foundation of the jurisdiction, the position and functions of the Celtic Brehon clearly stated, p. xl. An attempt to express in distinct terms the substance of two fragments of ancient dicta, pp. xli–iii. The case of Seither illustrative of the nature and the date of the Brehon law, p. xliv.

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III. The "Fine" and the "Geilfine" System.—No distinct explanation of the system anywhere given in these tracts, p. xlix. A remarkable passage in a preceding volume reprinted, explanatory of the mode in which property was divisible among the members of a family, pp. l–liii. Three distinct theories published as to the origin and working of the Geilfine system since date of the last volume of Brehon Law Tracts, viz., those of Sir H. S. Maine, Dr. W. K. Sullivan, Mr. J. F. M'Lennan. The views of Sir H. Maine stated and explained, p. liv. Dr. W. K. Sullivan's theory quoted; adoption of it by Mr. W. E. Hearn. Welsh rule of inheritance cited, p. lviii. Mr. M'Lennan's theory stated, pp. lix–lxiv. Importance of the tract entitled "Of the Divisions of the Tribe of a Territory," p. lxvi. Deductions from the tract entitled "The Land is Forfeited for Crime," p. lxix. Welsh rules of inheritance,

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OF TAKING LAWFUL POSSESSION.

DIN TECTUGAD.

OF TAKING LAWFUL POSSESSION.

Tocombachtaib fealb faeftiallaig; modaig maifc mbfugfaite; bactair cricha coma comol; aitheam gaibeas tuinige madon teallach medonach; ni fifteallach tuinige.

Tocombachtaib fealb, .i. is toich no is luath toibgit na fofir a ferann tref in tectugad fo fir do bfithino. Modaig maifc mbfugfaite, .i. is tre gnimrad a nech fifenaigtir doibfium he. Bactair cricha coma comol .i. comcairdi .i. batar leir fiam na crica .i. feichim no imdaigim co naccomaltar a ferann doibfium amlaid sin. Aitheam gaibeas tuinige .i. is aithiu aem, is luaithiu gabus nech tuinid in feanaind on techtugad medonach ina on cét techtugad. Madon teallach medonach .i. nocha lair in fer berer techtuga is in ferann da cét tectuga tuinide in feruinn ar ai a cét tectaigte; act arud cirt nama imbi. Ma fombe is maith, manu be, anaid deacma ocus is lairom tuinide isuidiu. Ni fifteallach tuinige .i. noco leir in fer berus tectugad is in ferann tar clad in ferann da tectugad tuinide in ferann ar ai in cét tectaigti, mana tabra in tellach eile.

.i. cid fir beirear in tectaduig is amlaid do berad é; abad teora decmad do tabairt iman ferann; abad cad lae do tabairt ime re re na cét decmaide, no comad ar in cét ocus is in lo degeanad, ocus is in lo medonad; ocus munar tinced he fir in re fin, is dul do anund co hor in ferann ocus da ead ina laim, ocus fiadne lair, a forba na cét decmaide; ocus ro bad coir dliged do a forba cuici is in cét decmaid, ocus a nindtecht na decmaide medonci, ocus bed do tall re la co naici; ocus muna tinceas é ann sin, is dul do amach re re na decmaide medonci, ocus ro ba coir dliged do a forba cuicci is in decmaid medonaig; ocus abad dó cad lae ar in mbidbaid re re na

[1] *Of taking lawful possession.*—The Irish for this is taken from O'D, 409. (H. 3, 17, col. 311.)

OF TAKING LAWFUL POSSESSION.[1]

NOBLE tribes quickly obtain possession of land; it is secured to them by the work of their horses; lands are not taken possession of until proof is given; he shall sooner get possession if from the middle entry; it is not true possession.

OF TAKING LAWFUL POSSESSION

Quickly obtain, i.e. it is soon or quickly that the good men obtain actual possession of the land by bringing the[a] requisites for taking possession into it. The work of their horses, i.e. it is through the work of their horses it is justified to them. Lands are not taken possession of, &c., i.e. equal 'cairde,' i.e. he had the territories before, i.e. I hold or I maintain that their land is not retained by them after that manner. He shall sooner get possession, i.e. quicker or sooner does one obtain possession of the land from the *date of the* middle possession-taking than from the first possession-taking. If from the middle entry, i.e. it is not to the man who brings the means of possession-taking into the land for its possession for the first time that the possession of the land belongs on account of its first possession-taking; *he has* but an inception of right alone respecting it. If it is, it is well, if not, there is a stay of ten days and the possession is his then. It is not true possession, i.e. it is not to the man who brings the means of taking possession into the land *and* over the fence of the land for its possession that the possession of the land belongs on account of the first possession, unless he makes the second entry.

[a] Ir. *These below*

Whatever man brings the means of taking possession it is thus he shall bring it: he shall give notice for the space of thirty days upon the land; he shall serve notice every day respecting it during the period of the first ten days, or *according to others*, on the first and the last day, and on the middle day; and, unless he has been responded to during that time, he is to go over to the border of the land, having two horses in his hand (*by the bridles*), and having a witness, at the end of the first ten days; and law is due to him at the end of five days in the first ten days, and at the beginning of the middle ten days, and he shall remain within for a day and a night; and if he is not responded to then, he is to go out during the period of the middle ten days, and law is due to him at the end of five days of the middle ten days; and he shall serve notice[b] upon the defendant during the period of the middle ten days,

[b] Ir. *A notice by him.*

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ṫeċmaiḋe meḋonaiġe; no, comaḋ iṙ in cét lo ocuṙ iṙ in lo meḋonaċ ocuṙ iṙ in lo ṫeiġeanaċ, ocuṙ muna ṫinceaṙ é, ḋuḃ ḋo anunn a ḟuṙḃa na ṫeċmaiḋi meḋonaiġi, ocuṙ a ninḋaṫeċṫ na ṫeċmaiḋe ṫeiġenaiġe, co ṫṙian ín ḟeṙainn, ocuṙ ceiṫṙi heiċ leiṙ ocuṙ ḋa ṙiaḋne. Ꭰḃaḋ ḋo caċ lae ṙe ṙe na ṫeċmaiḋi meḋonaiġi; no comaḋ iṙ in cét lo ocuṙ iṙ in lo meḋonaċ ocuṙ iṙ in lo ṫeiġeanaċ; ocuṙ muna ṫinceaṙ é, iṙ ḋuḃ ḋo amaċ, ocuṙ aḃaḋ ḋo aṙ mbiḋḃaiḋ caċ lae amuiġ ṙe ṙe na ṫeċmaiḋi ṫeiġ-anaiġi; ocuṙ muna ṫinceaṙ he, iṙ ḋuḃ ḋo anunn a ḟuṙḃa na ṫeċmaiḋi ṫeiġeanaiġi, co ṙuiġe leṫ in ḟeṙainn, ocuṙ oċṫ neiċ leiṙ ocuṙ ṫṙi ṙiaḋne leiṙ, ocuṙ a leṫ ḋo ġṙaḋaiḃ ṙlaṫa, ocuṙ a leṫ ḋo ġṙaḋaiḃ ṙeine; ocuṙ muna ḋamṫuṙ ḋliġeḋ ḋó ṙe nḋúl anḋunn, noco ninḋliġṫeċ ḋo ġín co ṫi amaċ no co ṙinna ín leíṙ no naċ leiṙ; ocuṙ ḋamaḋ ċinnṫe leiṙ na ḋemṫa ḋliġeḋ ḋo ṙe nḋúl anḋunn, noco ninḋliġṫeċ ḋo ġin co ṫuca aḃaḋ aċṫ ṫeċṫugaḋ ḋo bṙeiṫ.

Teallach ṫaṙ aṙṫa, cét teallach; aḋ na teċṫa ṫuiniġe; teallach ḋa ḋechmaḋ cian ṙamaṙ; aḋ ḋo coiṙleaḋ ṫuiniḋe.

Teallach ṫaṙ aṙṫa .i. ṫaṙ claḋ; no caṙḃuṫ i ṫellach ṫiṙe cin ḟuṙḟocṙa. Aḋ na teċṫa ṫuiniġe .i. ḋliġeḋ na teċṫanḋ ṫuiniḋi in ḟeṙainn ḋoṙom ṙin. Teallach ḋa ḋechmaḋ cian ṙamaṙ, .i. in ṫechtugaḋ beṙuṙ ino a aiṫle in ḋa ḋechmaḋ cian ṙemuṙ .i. in ṫeċmaḋ meḋonach ocuṙ in ṫeċmaḋ ṫeiḋenach. Cian ṙamaṙ .i. cian aṫaṫaṙ occo a ṙemuṙ. Aḋ ḋo coiṙleaḋ ṫuiniḋe, .i. iṙ ḋliġeḋ ḟoxlaṙ ṫuiniḋi ín ḟeṙainn ḋoṙom ṙin.

O'D. 409.

[Ninne mac maṫech ṙeinib luiġ ḟo ṫuaiḋ a cṙich nUlaḃ, ṫṙiuṙ maṙcach ḋo ṙaiġiḋ caṙuṫ, ocuṙ ṙcoiṙṙeṫ a neocha i ṫiṙ ḃa ceiniuḃ ḋoaiḃ ṙiam, na bo ḋuinċe choṫa ino: co neiṙiṙṫ in ṫi ḃa ṫiṙ, beiṙiḋ buṙ neochu aṙ in ṫiṙ. Aṙbeṙṫ ḋin in ḋiaṙ baoi la Ninne; ni mo ḋan ḋuine ciaḋ ḋoṫa in ṙcoṙ aṙ neoch ṙunn; na bu aṙ cuinċe coḋa anḋ. Ni huṙuṙa ṙon ṙo ḃa liḃṙi ṙiam; ni biaḋ anḋ eiṁ aiṙe.. Ni ḟeḋuṫiṙ coṙin naṙḋmaḋ leo ṙiam a ṫiṙ. Ni

[1] *The last ten days.*—The MS. here reads 'middle' instead 'of last;' but the sense clearly requires 'last.'

or, *according to others*, it may be on the first day, and on the middle day, and on the last day, and unless he is responded to, he is to go over *to the land* at the end of the middle ten days, and at the beginning of the last ten days, into the third of the land, he having *with him* four horses and two witnesses. He is to serve notice[a] during the period of the last ten days;[1] or *according to others*, it may be on the first day, and on the middle day, and on the last day; and unless he is responded to, he is to go out, and he is to serve notice[a] on the defendant every day outside during the period of the ten last days; and unless he is responded to, he is to go over at the expiration of the last ten days until he arrives at half (*middle point of*) the land, having eight horses and three witnesses with him, one-half of them of the chieftain rank, and the other half of the Feini rank; and unless law is offered to him before going over, it is not unlawful for him not to come out until it is ascertained *whether* the land is or is not his; and if it be certain to him that law will not be given to him before going over, it is not unlawful for him that he has not given notice, provided that he has brought the means of taking possession.

[a] Ir. *A notice by him.*

Entry over a wall, a first entry; law does not legalize possession; an entry of twice ten days on land long tilled; it is law that takes possession of the land for him *from the other party.*

Entry over a wall, i.e. over a fence; or, *according to others, to bring* a chariot in an entry upon land without forewarning. Law does not legalize possession, i.e. that is a law which does not justify possession of the land for him. Entry of twice ten days, &c., i.e. the means of possession-taking which he brings into it after the two ten days. 'Cian remur,' i.e. the middle ten days and the last ten days. Long tilled, i.e. long it has been with him under tillage. Law that takes possession, i.e. that is law which takes away the possession of the land for him.

Ninne, son of Matech, *one* of the Feini, went northwards into the country of the Uladh with three horsemen to visit friends, and they unharnessed their horses in a land which had previously belonged to their tribe, *but* it was not to demand a share therein; and the person whose land it was said to them, take away your horses from the land. Then the two who were with Ninne replied: it does not make our claim greater that we have unharnessed our horses here; it is not to claim a share therein. This is not easy for it was your own before; they shall not be *left* there for that reason. They did not know until then

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leicfet a neocha ar. Cartha din in ti ba tir a neocha ar ar eicin. Fogellrat iarum imbi Conchobar Mac Nera, ocus berthide friach ecairetechta forr an ti cartar a neocha ar in tir, ocus comlog in ni cartar ar, ocus do combi relba doib a coime fin di tellaig.]

Ataat frecht frealba la feine na gaibter athgabail, na beir ceathra ina teallach; it fir in do loingad. Toich do boing a tobach ocus a teallach; dun cen feilb; ceall gen faithche; tir forr a mbai fodlaig; bairleac boair; muirinir mara ina beir ceathra; uracomol cir neimid; tir da randa flath iar necuib in cheile, a claetar poll, i curtar lia.

Ataat frecht frealba .i. ataat frecht ferainn da naisneidenn in fenechus, ocus noco dlegar athgabail ir indille do brith indtib da techtugad. Na beir ceathra .i. noco berar cethra da techtugad. It fir .i. ir fir imruilgnither no ineillgither indtib, no do breith da techtugad. Toich do boing, .i. ir toich no ir luath toibgither. A tobach .i. athgabail. A teallach, .i. techtaigthe. Dun cen feilb, .i. cen ferann aici, amail ata Dun araill. Ceall gen faithche .i. amail ata cell gabrin. Tir forr a mbai fodlaig .i. ar nar marba na hindille. Bairleac .i. loc bair imbi bo ar .i. bar loc .i. inad a mbaraigther iat tre ar na mbo, no loc bair imbi galar. Muirinir mara .i. imir martanach bir ar muir, no ima martanach muir, amail ata Inis Cathaig .i. oinun a mbadad cuicce no uaidi .i. ar annsatar a mbrid inte. Ina beir ceathra .i. noco berar cethra da techtugad cen ethar, Uracomol .i. in ni forr a fiaccomailter a cir do neimed, amail ata tir mugain no rot adamair .i. tir bir la nech, dia ndlegar cirr, ar focoir-

[1] *Inis Cathaigh.*—Scattery Island in the Shannon, near Kilrush.

[2] *Tir-Maghain.*—In C., 846, the following note is given:—Secures the rent, i.e. land which one possesses of which rent is due, and the cattle of the entry are distrained for that rent alone, i.e. the thing by which his rent is secured to the 'Nemidh'-person, such as Tir-Mudhain in Eile to the King of Caisel, or Rot-Adamair, in Ui-Conaill-Gabhra to the Coarb of Lismor in the same way, i.e. According to the ancients all along everything which is found on Fiadh-Mudhain is

that the land had been theirs before. They did not remove their horses from thence. The person whose land it was then drove their horses from it by force. They afterwards applied to Conchobhar Mac Nessa concerning it, and he awarded a fine for unlawful expulsion upon the person who drove the horses out of the land, and an equivalent of what was driven off it, andhe gave them lands in proportion to their family.

There are seven lands with the Feini into which distress is not taken, into which not cattle are brought for entry; it is men that are required. Quickly the exaction and the entry are seized upon; a 'dun'-fort without land; a church without a green; a land on which there are plunderers; a deadly place of murrain; an island in the sea to which cattle are brought; *land which* secures the rent of a 'Nemidh'-person; land which the chief divides after the death of the tenant, where a hole is made, where a stone is put.

There are seven lands, i.e. there are seven lands which the Feinechus mentions, and into which it is not lawful to bring distress in the shape of cattle into them, to take lawful possession. Not cattle are brought, i.e. cattle are not brought to take lawful possession of them (*the lands*). It is men, i.e. it is men that are suffered or required *to be brought* into them, or to be brought to take lawful possession of them. Quickly are seized upon, i.e. it is quickly or soon seizure is made. Exaction, i.e. distress (*lawful seizure*). Entry, i.e. legalized. A 'dun'-fort without land, i.e. without having land, such as Dun Araill. A church without a green, i.e. such as Cell Gabhrin. A land on which there are plunderers, i.e. on which the cattle have been killed. A deadly place, i.e. a place of death, where there is murrain of cows, i.e. 'bas-loc,' i.e. a place where they are carried off by death through cow-plague or a place of death where there is disease. An island in the sea, i.e. a deadly island which is *situated* in the sea, or at which the sea is destructive, such as Inis Cathaigh,[1] i.e. *there is* fear of their being drowned *going* to it or *coming* from it, i.e. on account of the difficulty of bringing them thither. To which cattle are brought, i.e. cattle are not brought to take lawful possession of it without a boat. Secures *the rent*, i.e. the thing by which his rent is truly secured to a 'Nemedh'-person, such as Tir-Maghain,[2] or Rot-Adamairi, i.e. land which one has, of which rent is due, for the cattle brought to

forfeited (*due*) to the King of Caisel the day on which he will assume the kingdom, because they had killed a king of Caisel. Rod-Adamair, too, there was a serpent there, and Mochuta expelled it thence, and the reward that used to be given to him for having driven it thence was everything which the Coarb of Mochuta *of Lis-mor* could find on it, the day on which he assumed the abbacy, should be his property, for it is forfeit.

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Liṫeṙ ceiṫṙa in ṫeallaiġ la ciṙ a neṁiḋ. Ni coiṙ ṫellaċ ceṫṙa inn aṙ aiṙmitin na ṙlaṫa iṙa tiṙ. Tiṙ ṫa ṙanṫa ṙlaṫh .i. in tiṙ uṙṙannuṙ in ṙlaiṫh, tiṙ ṫibaḋ; no iṙ ṙṙecṙa ṫaṫhġabail inḃleoġain, .i. conḋaiġ ṙlaiṫ a cuiṫ anḋ .i. conа ḋaṁaiṙ in a ṙlaiṫiuṙ e, ocuṙ o ṙoinnṙeṙ in tiṙ nḋiḃaḋ nocha negin ḋo ṫechṫuġaḋ ḋo bṙeiṫ inḋ. Aclaeṫaṙ ṙoll .i. claḋ .i. i claiḋeṙ ṙoll i compaind in ṙeṙainḋ. I cuṙṫaṙ lia .i. coṙṫhe.i. iaṙ na claiḋe .i. in cloċ cṙuche .i. bi ṙoll ocuṙ lia ocuṙ coiṙṫa ṙlaṫa ann co ṙeṙṫaṙ a cuiṫ anḋ.

.i. ḋia mbeṙṫaṙ aṫhġabail iṙ na ṙeéṫ ṙeṙannaiḃ ṙeo, aṫaṫ cuic ṙeoiṫ cid ḋo cinnṫaċ cid ḋo inḃleoġain; no ḋono, iṙ cuic ṙeoiṫ innṙin ḋo inḃleoġain, ocuṙ ni ṙil ni ḋo cinnṫaċ co na ṙaṙa ṙoġail, ocuṙ o ṙaṙḃuṙ ṙoġail aṫáiṫ cuic ṙeoiṫ inn ḋo cinḋaċ. Maṙa innille nuġ ḋo ṫeċtuġaḋ ṙunn, iṙ niaċ techṫaiġṫe tiṙe co cunn co coiḃne, no tiṙe cen cunn cen coiḃne. In comlin ḋo inḋilib ḋo beṙaṙ ḋo techtuġaḋ na ṙeṙann eile coṙaḃ e beṙaṙ ḋo ḋoinib ḋo techtuġaḋ na ṙeṙann.

Toċombaiġ Ciannaċht cianḃṙuiġe; ṫa ai anḋ ṙin ṙamaiġaṙ; ḋo luiḋ taṙ ṙeaṙt a ceḋ ṫeallaiġ; ḃach ṙoṙ ṙine a ṙoṙcomal; imana iaṙum aṙ ṙéineachaṙ co hoċt la iuiḋniġe ṙiaḋnaiṙe ḃan a ceṫeallaċ, naḋ ṙeanaḋ a ceḋ ṙuṙa. Ceaṫṙumaḋ la aṫhaṙach iṙeaḋ techta cach ḃan ṫeallaiġ. Ḋo luiḋ iaṙum ḋia ceanḋaḋaiġ co nḋiaḃlaḋ aiṙme aṫaṙṙaċ, loṙaḋ, cṙiaṫhaṙ, ceaṙṫ-ṙuine; cuaiṙt ṙaiġeaṙ a comnaiḋm la ṙeaṙ ṙoiṙġeall ṙiaḋnaiṙe. Iṙ iaṙam aṫhṙach ḋian ḋa ṙṙeaġṙa, ḋaiġ ḋliġeḋ ceaṫhṙuimṫe a ceḋ, ḋliġeḋ aile a meḋonaċ, tulṙuiġeall an ḋeiġanach.

Toċombaiġ ciannaċht .i. iṙ toiċh no iṙ luaṫh ṙo toiḃġeṙṫaṙ Cianaċt, ingen Feṙġuṙa Foṙcṙaiḋ, na ṙeṙunna ṙo bo cian uaiṫhe cuṙṫa-

[1] '*Neimedh*'-*person*.—C. 846, adds, "the chief retains his share there.' '

make entry shall be distrained for the rent of the 'Neimedh'-person. It is not right that an entry by cattle be there on account of the dignity of the chief whose land it is. Land which the chief divides, i.e. the land which the chief distributes, a 'dibadh'-land; or it is a responding to the distress of a kinsman, i.e. the chief retains his share in it, i.e. he does not cede it during his reign, and when he will divide the 'dibadh'-land he is not obliged to bring the means of taking possession into it. Where a hole is made, i.e. a mound, i.e. wherein a hole is sunk in the division of the land. Where a stone is put, i.e. a pillar-stone, i.e. after its being enclosed, i.e. the boundary stone, i.e. there are a hole and a stone and the chief's standing stone there in order that his share there may be known.

If distress be brought into *either of* these seven lands, there are five 'seds' *due* either by the guilty person or the kinsman; or, indeed, *according to others*, it is five 'seds' by the kinsman, and there is nothing *due* by the guilty person until damage arises, and when damage arises, there are five 'seds' *due* by the guilty person. If it be cattle that he has brought to take possession in this instance, it is fine of lawful actual-possession of land with chief and tribe, or of land without chief or tribe. The same number of cattle which is brought to take possession of the other lands is the number of men that shall be brought to take possession of these lands.

Ciannacht took possession[2] of a distant farm; she arranged two ewes there; she passed over the mound-fence as the first entry; she challenged the tribe to come to terms of agreement with her *as to her land;* she afterwards remained, according to the Feinechus, for eight days with women witness on the occasion of[a] the first entry, *to prove* that she did not sell her first modesty. In four days after it is that every woman's entry is lawful. She went afterwards again to the head of her land with double stock, a kneading trough, a sieve, *and* a baking implement; in due order she claimed her right with a man witness. If she is afterwards responded to, she is entitled to four days for her first *suit*, to two days for her middle, *and* for her last, to speedy judgment.

[a] Ir. *In.*

Ciannacht took possession, i.e. it is soon or quickly Ciannacht, daughter of Fergus Forcraidh took possession of the lands which were lately far from her;

[2] *Ciannacht took possession.* The following anecdote is given in C. 846 (H. 3, 18, p. 385 a), and in O'D. 740 (H. 3, 17, col. 538):—"Ciannachta, i.e. daughter of

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rta; no dono, comad i Ciannocht, ingen Connla, mic Daig, mic Ailella Ulaim. Tocombaig .i. do caom boing. Cianbruige .i. cian mor ro mbatar cin fogurrad, no arar fot uaichi rombui tir .i. o Fenib co hUlta. Da ai and rin ramaigar .i. ir amlaid do roine ri in ramugad rin no in torbugad rin ocus di cairig a corad ina laim. Do luid tar fearr .i. do cuaid ri tar clad in fearainn da cet techtugad. Bach for fine .i. raigim no inoraigim conad ar ferann na fine berur ri in fir accomalrain. Imana iarum .i. em anad ri iar rin meite rin. Ar feineachar, .i. do rein in fenechair. Co hocht la .i. bith di ina urrainn re ré oct laithi, ocus ceithri cairig do brith le a forba na cethramtan medonchi a haithli na cét cethramtan. Fiadnaire ban a ceteallach .i. da ban fiadnaire do breith di le a forba na cethramtan medonchi a haithli na cét cethramtan; log enech do cechtarde dib in ferann, .i. Gabal ingen Minn ocus Echne ingen Carrait mbind. Nad reanad, .i. noco recair einig a cetmuinntire. Ceathrumad la athairach .i. ro bo coir dliged do damtain di ir in cethramad la don cethramtain deidenaid a aithli na cethramtan medonchi; acarrad fechtar aile arir. Iread techta .i. irret in ro dliged cach techtaigthi banda. Do luid iarum .i. iarir in aile déc, .i. do chuaid ri iarum do cind a lacha, do chind a ferainn bodéin. Co ndiablad airme, .i. co ndiablad na airme rucurcar le reime a forba na cethramtan medonchi do brid di le acarrach fechtar aile arir, .i. ocht cairig. Lorad, criathar, .i. a lorat ocus a criathar, ocus in ni for a certaigenn a fuine leo .i. a lec fuine ar torach aile. Cuairt raigear a comnaidm .i. in ni for a ninforoigenn a cuma narcairecht iar cae uiro .i. a cuiceal ocus a cirbolg. La fear forgall .i. la fer bur inriadnaire aca forgall; uair ir fir do chuaid menma in ugdair conabu doilgiu tri ban fiadnaire dagbail na aen fer fiadnaire. Ir iarum athrach .i. ir iarum, ara aithli rin, athairrach fechtur aili; ar ir madma frecairtes hi do rein dligid comaith ir amlaid reo ro bo coir a denam, .i. ma tinchirin ber furra fo cétoir, no ar meadan, ir ar ceathruime a dligeth di ar dur, ocus is gairdi ar gach inbaidi cach mod do bein raethar furra,

Fergus Forcraidh and Bri Anbui who was wife to Blai Briughaidh, but whom Conchobhar Mac Nessa bought after the death of her first husband, Fergus Forcraidh. The woman wished to come to her brethren to demand land of them, i.e. Conall Cernach and Ainrirgin * *.

The daughter inquired of Sencha, son of Ailell, whether it was right for her to demand land. He said at first that it was not right for her to demand land; after which "the blotches"[1] were raised on his cheek in the night. He said on the next day that it was right for her to demand land; and he told her to bring man-possession-taking into it, so that grain-blotches were raised on his cheeks a second time. His mother then told him that the *means of* possession-taking which he should have decided should have been sheep, a kneading-trough, and a sieve.

She then took two worthy female witnesses with her, namely, Gabhal, daughter of Midhe Minn, and Cethra, daughter of Minn, and they took Minn's chariot

[1] *The blotches.*—These were said to appear on the face of Kings or Brehons who had given false judgments. *Vide* Senchas Mor, vol. i., p. 25,

or, *according to others*, it was Ciannacht, the daughter of Connla, son of Tadhg, son of Cian, son of Ailell Olum. Took possession, i.e. fairly seized on. Distant farm, i.e. they had been for a long time before *in the possession of her brethren*, without good security; or, *according to others*, it was far away from her land was, i.e. from the Feini[1] to Uladh. Two ewes, &c., i.e. she settled or arranged them thus, she held two ewes yoked in her hand. She passed over the mound-fence, i.e. she went ever the fence of the land to take first possession of it. She challenged the tribe, i.e. I hold or insist that it is on the land of the tribe (*not of strangers*) she brings this true claim. She afterwards remained, i.e. she remains quiet after *doing* thus much. The Feinechus, i.e. according to the Feinechus. For eight days, i.e. she is to be a petitioner for the space of eight days, and she is to bring four sheep with her at the end of the middle fourth day, after the expiration of the first four days. Women witness on the occasion of[a] the first entry, i.e. two women witnesses to be brought by her at the expiration of the middle four at the end of the first four days; the land is equal to the honor-price of either of them, viz., Gabhal, daughter of Menn, and Eichne, the base[b] daughter of Menn. That she did not sell, i.e. she did not sell the honor of her first marriage. In four days after, i.e. it is right to grant her *the benefit of* law on the fourth day of the last four after the expiration of the middle four; the time after that again. Is lawful, i.e. this is the law of every woman possession-taking. She went afterwards, i.e. after the twelfth day, i.e. she afterwards went to the head of her own property, to the head of her own land. With double stock, i.e. double the stock which she had brought with her before the expiration of the middle four, are to be brought by her another time again, i.e. eight sheep. A kneading-trough, a sieve, i.e. her kneading-trough and her sieve, and along with them the thing by which she adjusts her baking, i.e. her baking flag (*griddle*) first of all. In due order she claims her right, i.e. the thing by which she sues her security in proper order, i.e. her distaff, and her comb-bag. With a man witness, i.e. with a man who is qualified to bear witness, to give testimony; for according to the intention of the author *of this law* it would not be more difficult to find three female witnesses than one male witness. Is afterwards, i.e. it is afterwards, after this, one other time; for if she be responded to well according to law, this is the way it should be done, i.e. if she be responded to at first, or in the middle, it is after four days that law should be ceded, at the first *entry*, and it is shorter every time, the more she is put to trouble[2], until judgment

[a] Ir. *In.*

[b] Ir. *Chariot.*

with them. And she took two sheep on the first occasion, and four on the fourth day, and eight on the eighth day; and she went in this manner at once with two sheep and two female witnesses with her, and remains afterwards. She brought four sheep on the eighth day, and eight on the eighth day, and thus took the possession."

[1] *From the Feini.* She had to come a long distance from the territory of the Feini, in the south, to the country of Uladh in the north.

[2] *Put to trouble.*—The following explanation is given of this passage in O'D. 410:—"If she is responded to at once or in the middle *term* it is in four days that her right is to be ceded to her in the first entry, and it is shorter every term the more trouble is brought upon her, so that it is "a judgment of precinct" to herself, i.e. that the term of its arrival to them, i.e. a pledge in the precinct, or five days to solicit the defendant, i.e. five others if at the middle notice her offer of law was responded to, or she is to remain for a time, for she is nearer to the actual possession each time."

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comit fuigill di; maigin fadeoig iarum. Dligeid cethruimthe .i. fo bo coir dligeid di a forba na cethruimthe medonchi a haithi na cet cethruimthe. Dligeid aile a medonach .i. fo bo coir dligeid di a forba aile don cethramtain deidenaid a aithi na cethramtan medonchi. Tulfuigeall an deiganach, .i. tal ata a fuigell uili di i forba na cethraimthi deidenchi, .i. a cruth uile do breith ind.

Mara cindti lair na demtar dligeid do, irlan do dula anunn co na cruth uile. Maru cindti lair co ndemtar, ir lan fiach techtaigti uad; cona de fin ata, arad teora ndechmad, in inbaid ir cunntabairt lair i ndemta no na demta dligeid do, .i. tall bir fris in re bid oc cuinnge fecheman in fecht deiginach, oca tig imurro in fecht tuiredh ocus medonach.

.i. cach uair ir abad teora ndechmad do beraid na fir, ir abad teora ceathramtan do beraid na mna, ocus cutruma dechaib do beraid na fir ocus do cairdaib do beraid na mna; dcus in comrad tiagaid na fir ir in ferann, ir in comrad fin tiagad na mna. Cach uair ir mna beraid in techtugad ir abad teora ceathramtha do berad ar in mbidbaid ann, ocus ir amlaid do berad .i. abad do tabairt doib ar in mbidbuid cach lae re re na ceathraimthe; no dono, ceana, comad ir in ced lo, ocus ir in lo medonach, ocus ir an lo degeanach; dul di amach a forba na ceathramtan tuirsige, ocus a nindithecht na ceathramtan medonaige tar fearr in ferann, ocus da cairig le ocus ban fiadnaise le, ocus bed di ann re la co naidchi, ocus muna tincar hi dul dia tig ocus bed di ann re re na ceathramtan medonaige, ocus abad do tabairt cach l[a]e ar in mbidbuid re re na ceathramtan medonaige; no, comad ar in céd lo, ocus ir in lo medonach, ocus ir in lo deiganach, ocus dul di amach ann fin co trian in ferann, ocus ceithri cairig le ocus da ban fiadnaise, ocus bed di annsude re la co naidchi, ocus muna damar dligeid dí ir dul dí dia tig ocus bed di ann fin re re na ceathramtan deiginaige; ocus abad do tabairt cach lae dí ar in mbidbuid re re na ceathramtan deigincaid; no, comad ar in céd lo ocus ir in ló deiganach dul dí amach co ruige led in ferann, ocus hoct cairig le,

[1] *For her last, to speedy judgment.* O'D. 411, adds here, "i.e. yonder (*within the land*) all the decision is at the expiration of the last four days, unless law has been ceded to her until then. Ciannachta, daughter of Connla, son of Teige, son of Cian, sued for seven 'Cumhals' for the reward of her hand-labour."

is *passed* for her; *it is er* precinct finally afterwards. She is entitled to four days, i.e. it is right to cede her law at the expiration of the middle four days after the first four. She is entitled to two for her middle, i.e. it is right to cede her law at the end of two days of the last four after the middle four *had been attended to.* For her last to speedy judgment,[1] i.e. within all the judgment lies for her at the end of the last four days, i.e. she is to bring all her cattle into it.

If it be certain to him[2] that law will not be ceded to him, it is guiltless in *him* to go over with all his cattle. If it be certain to him that it (*law*) will be ceded, it is full fine of lawful actual possession that it is to be paid by him; whence is *derived the rule of law,* "*let* a notice of thrice ten days *be geven,* when it is doubtful to him whether law will be ceded to him or not ceded," i.e. within the territory he is *tarrying* while he is supplicating the defendant on the last occasion, but at his own house on the first and middle occasion.

That is, every time that the men give notice of thrice ten days the women give notice of thrice four days, and whatever number of horses the men bring it is the same number of sheep which the women bring; and the extent to which the men enter into the land, is the same extent to which the women enter. Every time that it is women who bring the *means of* taking possession it is a notice of thrice four days they serve on the defendant, and it is thus they serve it, i.e. they serve notice on the defendant every day during the space of the four days; or, indeed, *according to others,* it is on the first day, and on the middle day, and on the last day; she is to go out at the expiration of the first four days, and in the beginning of the middle four days *she is to go again* over the mound-fence of the land, having two sheep with her and a female witness, and she is to remain[a] there for a day and a night, and unless she is responded to she is to go to her house, and to remain there during the space of the four middle days, and to serve notice every day on the defendant during the period of the four middle days; or, *according to others,* it may be on the first day, and on the middle day, and on the last day, and she is to go out then as far as the third of the land, having four sheep with her and two female witnesses, and she is to remain there for a day and a night, and unless law is ceded to her she is to go to her house and remain there during the space of the last four days; and she is to serve notice every day on the defendant during the space of the last four days; or, *according to others,* it may be on the first day and on the last day she is to go out as far as half the land, having eight sheep with

[a] Ir. *Be.*

[2] *To him.* There is some error or defect in the context here.

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ocus trí banfiadnaise, ocus bet di ann fe la co naidi. Ma damar dligedi di anneis, is dligedi do denam doib mun fernann; ocus muna damar dligedi dí, islan dí sín co ti, act a crod uili do breith ind anund a forba na teora ceathramta; ocus gemad fe nduil anund bud chindte na demta dligedi dí sin co tuca dligedi do neach, no dligedi tectaigte ime, act dul anund dí cona crod ocus co na muinnter fo cétoir.

O'D. 410, 411.

[Arad naile o mnaib tect is tir i foircenn na fe laithe; ar a hocht famlaid, ocus anad cetre la; tect anunn, iarfuidiugud, is aile dec famluid.

Arad treisi a ndechmuide do berait na fir im a fernannaib; dul doib anunn i forbuig na cet dechmaide dar clad in fernunn, ocus da ech leis, ocus fiadnuisi dia mbi logenech in fernunn; ocus taidect da tig fe fe na dechmuidi medonde, ocus dul ann anunn ina forbaid co trian in fernunn, ocus ceithre heich lais, ocus a fgur is in fernonn, ocus da fiadnuisi .i. cuirub logenech gach fer dib in fernunn; taidect do da tig fe fe na dechmaide deidende, ocus dul anunn inu forbaid in comat bus aill leis, ocus act neich leis, ocus thiur fiadun dardab log einech cach fer dib in fernund; ocus bid dall no co ndamtar dliged do umun fernund.

Is .i dedbir in baintellaig ocus in fearteallaig, .i. anus dechmuide drid anus cetruime do mnaoi, anus fer fiadnuisi do fir anus ban fiadnuisi do mnaoi .i. cus in cethruime deidenuig fer fiadnuisi intoi fein; anus eich dfernuib is caorid do mnaoi. In orba cruid no fliarta a mathar berar frisi in tectugad sin, ocus ni fuil mac ann; no, is a fernunn athur ocus senathur, ocus ni fuil comorba fernde ann.]

Bearaid Senca cetbrethach bantellach ar fertellach, comdar ferba fulachta for a gruaide iar cilbredaib.

[1] '*Cruid*'-*land*. Over the 'd' of the word 'cruid' is written the usual contraction for 'no,' 'or,' and the letter 'b,' suggesting that the word might be 'crub,' 'a hand or fist.'

her and three female witnesses, and she is to remain there for a day and a night. If law be ceded to her then, they are to make *regulations according to* law concerning the land; and if law be not ceded to her, it is safe for her though she should not come, but *she is* to bring all her cattle over at the expiration of the thrice four days; and even though it should have been certain before going over that law would not be ceded to her, though law had not been given to anyone, or law of actual-possession touching it, but she is to go over with her cattle and with her people at once.

A notice of two days *is to be given* by women that they will enter[a] upon the land at the expiration of the six days; it is accordingly in eight days, and a stay of four days; they go over accordingly in twelve days.

[a] Ir. *To come.*

The men give notice of thrice ten days touching their lands; at the expiration of the first ten days they shall go over the mound-fence of the land, *each* having two horses with him, and a witness who has honor-price *equal to the value* of the land; and he is to return to his house within the space of the middle ten days, and at the expiration thereof he is to go over as far as the third of the land, having four horses with him, and he unharnesses them in the land, and *he has* two witnesses; i.e. each man of them has honor-price *equal to the value* of the land; he is to return to his house *and remain there* during the period of the last ten days, and at the expiration thereof he is to go over *into the land* as far as he may think proper, having eight horses with him and three witnesses, each man of whom has honor-price *equal to the value* of the land; and he shall remain there until law is ceded to him concerning the land.

The difference between a woman possession-taking and a man possession-taking is this, that which is ten days for the man is four for the woman, *and* what is man witness to the man is woman witness to the woman, i.e. until the last four days in which man witness *is required for both;* what is horses for men is sheep for a woman. Into the 'cruid'-land[1] or 'sliasta'-land of her mother she brings this possession-taking, and there is no son; or *according to others*, it is into the land of a father or a grandfather, and there is no male heir.

Sencha adjudged in his first decision woman possession-taking as man possession-taking, so that there were blotches raised on his cheek after *having passed* biased judgments.

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Hicrai Brig a firinde a firbreathaib; iri conmidóar bantheallach, comdar fearba falgaide for a gruaidaib iar firbreathaib.

Beartaid Senéa .i. ro breithnaigestar Senéa ara cet breithemnus in techtugad banda amuil in techtugad fersa. Comdar ferba .i. co ro imfuilngiter na bolga for a gruaidib iar mbreith na claenbreth .i. iar claen brethib.

Hicrai Brig .i. ro icastar Brig ingen tSencha frin do rein firinni a firbreith. Iri conmidóar .i. iri ro meigemnaigestar in techtugad banda. Comdar fearba .i. cor tuloigretar .i. cor loigretar atai na bolga for a gruaidib iar mbrith na firbreth; ocus ir ar frin gabair ce ro neich duine aer do neoch, no fogail aile fair, o ra gena nach coibdelach do molad condigair iar frin, no o gebar iman fogail frin, coma inann do ocus do neich bodein. Falgaide .i. folgithi.

.i. ir i breth rucastar Seanéa in techtug[ad] banda amuil in techtug[ad] fersa, ocus ro erigestar bolga for a gruaidib; ocus ro icastar firinne Brige erec. Ocus iri breath ruc, a teachtug[ad] fein dona mnaib. Acus ir ar frin ir follus cid fogal no fuaibread duine do denam, o bur carat no coibdeilech do no gebad uimpe, conad innann do ocus no gabad budein impe.

Inlolaid feichidar fealba techtair a cond a cenal. Bach be degabail, cindir barachtaig criche, coirrean ni bia o beraib moga na fondaid slaite. Saerta la fine a forcomol, fo bith banadba tairic.

Inlolaid .i. ro eillgestar .i. ro ineillgirtar Sidir, ingen Mind, ocus Gabair, ingen carpait Mind na fersanna ro techtaigritar codnaig a

[1] *Himself.*—In O'D., 413, the reading runs somewhat differently, as follows:—"So that the blotches disappeared from his cheeks after the passing of the true judgment by her, and from this is derived *the custom;* that if a man should pass a false sentence, whenever a friend or a relative of his should pass the true judgment after it, it is the same to him as if he himself had passed it, and it frees him from the fines of false judgment after it, i.e. as he is bound to pay fines for him to another creditor, so is he to have the benefit of the judgment delivered in this case.

[2] *Seither.* For 'Seichidar' of O'D. 1263, O'D. 413, reads 'Seithir,' and C. 848, 'Sithir.'

Brigh in her truth by her true judgments cured him; it is she that established the woman possession-taking, so that the blotches on his cheeks were concealed after the true judgments *were passed.*

Sencha adjudged, i.e. Sencha adjudged in his first judgment that the female possession-taking should be the same as the male possession-taking. So that there were blotches, i.e., so that the blotches were raised on his cheeks after having passed the biased judgment, i.e. after partial judgments.

Brigh cured, i.e. Brigh, daughter of Sencha, cured him according to the truth of her true judgment. Is it she that established, i.e. it is she that concerted the female possession-taking. So that the blotches, i.e. that they sunk down, i.e. that the swelling of the blotches disappeared after the passing of the true judgment; and hence is derived *the rule, that* though a person may compose a satire, or do other injury to another, if any relative of his should compose a eulogium after that, *the latter will nullify the satire;* or if he should make good the injury, that is the same as if he had done so himself.[1] Concealed, i.e. hidden.

That is, the judgment which Sencha passed was that the female possession-taking should be like the male possession-taking, and blotches did rise on his cheeks; and the truth of Brigh cured him. And the judgment she passed was that the women should have a possession-taking of their own. And from this it is evident that whatever damage a person attempts to do, if a friend or a relative should undo it, it is the same as if he himself should repair it.

Seither[2] claimed the lands which the chiefs of her tribe had taken possession of. She was a woman of two races, who was entitled to the land, *and* she sought that it should not be after the custom of slaves, or dispossessed persons. She was freed by her tribe from obligation, because female possession reverts.

Claimed, i.e. she challenged, i.e. Sithir,[3] daughter of Menn and Gabhair, the base[a] daughter of Menn, claimed the lands which the chiefs of her tribe had taken

[a] Ir. *Chariot.*

[3] *Sithir.*—In C. 848, and in O'D. 413, the following note is given:—

"Sithir claimed the lands, i.e. the daughter of Fergus, son of Ledi, who was married to[b] Anluan, son of Madach, *one* of the Feini, and she had a son by him, Nia MacAnluain. Sithir claimed a possession from her brothers, i.e. from Ailild Lethdherg and from Aengus Aigle, i.e. the face of that Ailell was half red, and it was in Aigle Aengus was fostered, i.e. Meitheas in the territory of Uladh."

[b] Ir. *With.*

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ceneoil. Techtair .i. ro coiplitiġirtar, no rola corta ino. Bach be degabail .i. reichim no indraigim conad ben ro cindurtar o dib ġablaib, ir de a athair dullaib ocus a mathair do feinib Temrach. Barachtaiġ criche .i. ba reidirech iri ar in crich ro ċarurtar, no ro ba caritanach le, .i. rob indrigti for in crich ro carurtar. Ni bia o beraib moġa .i. noco biad ro bafir gnae no aibind oc ruba ocus oc ruba da cind aile, .i. ni biaṫra aiġi fine na neċ iteir, acht a dutraċt budein, .i. ni biaṫra friu ocus tall i cinn tire .i. ni bia cir na congbail fuirri, na biathaḋ aided tuaiṫi na duna, act tindtaithes faeth. Na fondaid raite .i. noco fonnabṫa ar no hi for in rot can a leṫ di cen ruba ocus cen ruba. Saerta la fine .i. forraidter a fir accomol a feriand na fine amlaid sin. Fobith banadba taisic .i. fon fath ir adba dar coir airec in feraind hi iar fir, im a tabairt aile di co ruba ocus co ruba, no im a leṫ di cen ruba ocus cen ruba; no fon fath ir adba dar coir airec in feraind uaithi iarir na re, .i. ro bui trebuiri fri hairec.

Doiġin ar a feirear beru tellaiġ. 1 teora deachmadaib dligeḋ, mad frir gair comairiter; o ta cumal co trichad, aḋ naen bercna tellaiġ cid diabal fod foirge.

Da each a laim leath aer realba, riadnaire indric, foircir dligeḋ cuice do dligeḋ, dianad be feineachar. Muna be feineachar, tellair iarruidiu imid raind in dechmaid, ceithri heich ailiur fcuirtair raer realba deirge fer riadan lat; randta cormailir; treire do dligeḋ dia nod be feinechar. Muna be feinecur, tellair iarruidiu a ndirge and deċmad, ocht neich ailear im threib torruma, threige fer riadan lat do gradaib feine. Rannta cormailiur. Tul fuigeall uadaib, dianad be feineachar. Munad be feineachar

[1] *Shall not feed.*—The MS. here has only 'biaṫr' which Dr. O'Donovan lengthened out into biaṫra; 'r' with the same mark of contraction elsewhere is lengthened out into 'ror.'

[2] *At the border of the land.*—For 'leath aer realba,' of the text, the fragments of this tract found in O'D. 414, 744; and in C. 850, have "leṫ raor relba, i.e. an half free possession." The different MSS. vary as usual in the spelling of the words.

possession of. Taken possession of, i.e., erected boundaries, or they placed pillar-stones there. She was a woman of two races, i.e., I hold or insist that she was descended from two races, her father being of the Ulta, and her mother of the Feini of Teamhair. Entitled to the land, i.e., she was directly entitled to the land which she loved, or which was dear to her, i.e., she was entitled justly to the land which she loved. That it should not be after the custom of slaves, i.e., that she should not, according to the pleasant or delightful knowledge, be bound to perform the services of attack and defence for the entire of it, i.e., she shall not feed[1] the head of the tribe or any other person, but according to her own wish, i.e., she shall not feed here and there for the sake of the territory, i.e., there shall be neither rent nor keeping upon her, nor refection for the guests of the territory nor of the 'Dun'-fort, but every impost is removed *from her*. Or dispossessed persons, i.e., she was not removed from it upon the road without receiving the one-half thereof without *being obliged to perform* the services of attack and defence. She was freed by her tribe, i.e., she was freed from the true obligation of the lands of the tribe in that manner. Because female possession reverts, i.e., because it is a property of which the land is to be restored in truth, for giving it all to her with the *obligation of performing the* services of attack and defence, or of giving the half of it without *performing* the services of attack and defence; or because it is a property of which the land is to revert from her after the term, i.e., there was security for restoring it.

Doighin, dost thou know the customs of an entry? In thrice ten days law is due, if thou consult wisdom; from *land of the value of* one 'cumhal' to thirty, it is one custom of entry, though the length of the 'Foirge'-measure should be doubled.

Two horses in hand at the border of the land,[2] *with* pure witness, he demands that his legal right[a] be ceded to him, if there be 'Feinechus.' If there be not 'Feinechus,' he returns until the middle of the ten days, when he should bring four horses which are unharnessed in the free land in the presence of[b] two male witnesses. There is a similar division; *in* three days *afterwards* his right law is to be ceded to him, if there be 'Feinechus.' If there be not 'Feinechus,' he returns after this at the end of ten days with eight horses which he is obliged to have to relieve the house, with three man-witnesses of the 'Feini' grade. There is a similar division. If there be 'Feinechus,' speedy judgment is passed in his favour. If there

[a] Ir. *Law.*

[b] Ir. *With thee.*

Of taking lawful Possession.

techta tuinde; 1 log do airgrean co feir, conadogg, co tein co naitreib, co toruime ceathra, acht tir cuind cetcoraig, no imtelgad mbroga noch ir nemead. Ir ar in teallach fo do bongar cac fealb la feine.

Crui tire do tellach, inaenan main moaigtear 1 fetaib; do firtar, mad la buar buire, cumal are flaindter. Munab fo feilb techta tir gen cund gen coibne, dilri buair berair.

Doigin ar a feirear.i.a mac; ar Nin re Doigen, co feirer friu no co roib acut bafir gnae no aibind in techtaigti do reir in fenechair, .i. Nin do rad and fo fri Doigin .i. fri mac fir gaid dUlltaib. 1 teora deachmadaib, .i. ir na teora dechmaid ata dligid in techtaigte, no ar a aitli na teora ndechmaid dlegair de a crod uile do breit ind. Mad frir gair, .i. madia coimrir a fritgair fein, no dia nimcomairtter re gaetaib, ir amlaid feo do dena. O ta cumal .i. o ta airneir dam don tir cumaile co ruici in ferann ir friu tricat cumal, ocus cindted ar eicindtech frin, .i. cid tir cumaile cid tir tricait cumal, ired oen bercna and fo fuil do tellach. Acid naen bercna .i. ir inann do rein bafira gnae no aibind dligid a techtaigti. Cid diabal fod foirge .i. cid diablad forge ar fut ber and, ir amlaid frin biar.

Da each a laim .i. da ech i laim conici let eochair in ferainn, ocus noco raer doib a fcor annfidi, ocus beit cuic feoit dia fcuirtar fo cetoir im in tire .i. leth fuir na fealba, no ir in fein [feilb] lethfuir, im tomailt a feoir nama, lanfoer imurro in fealb do melar fer ocus arbur; letraor imurro in trealb na tomelar act fer no arbur nama. Leath aer .i. itir a clad ocus aar. Fiadnaire indric .i. fiadnaire indraic aca firfechain cona dligtech do cuaid irin fearand. Cuice do dliged, dianad be feineachar .i. madia roib fuar dligid in fene-

[1] *Food.*—'tein' may also mean 'fire.'

[2] *Doighin.*—A somewhat different commentary is given in O'D., 413, as follows:—"Doidhin, said Nin to her son, to Doidhin, that thou mayest know the good or pleasant knowledge of the possession-taking; or Doidhin was the name of the Brehon. She was a female 'Coarb;' and she obtains all her land with obligation to perform services of attack and defence for a time, and the half of it without obligation to perform service of attack and service of defence." "Cria feirear" means either, "dost thou know," or "that thou mayst know."

be not 'Feinechus,' lawful possession *is given;* its price is to be offered with sheds, cows, food,[1] habitation, with attendance of cattle, except in *the case of* the land of Conn Cetcorach, or *of land* devoted to the support of a mansion which is a 'Nemeadh'-person's. It is by means of[a] this *kind of* entry every land is seized on by the Feini.

[a] Ir. *Out of.*

In an entry on land which has fences, it is not equally the property increases in 'seds'; it is decided if it be with kine he takes *the possession,* it is a 'cumhal' that is mentioned. Unless it be in a lawful possession in a land without a chief, without a tribe, the cows which are brought are forfeited.

Doighin[2] dost thou know, i.e. her son; said Nin to Doighin, that thou mayest know, or that thou mayest have pleasant or delightful knowledge of lawful possession-taking according to the Feinechus; i.e., Nin said this to Doighin, i.e., to a son of a wise man of the 'Ulta'. In thrice ten days, i.e., in three times ten days the legal right of possession is *to be conceded,* or it is after the three ten days it is required of him to bring all his cattle there. If thou consult wisdom, i.e., if thou consult thy own wisdom, or if thou confer with wise men, it is thus thou wilt do. From *land of* one 'cumhal,' i.e., as I am treating of *land from* the land of *the value of* one 'cumhal' to the land which is worth thirty 'cumhals, and this is *a case of* "certainty for uncertainty," i.e., whether it is a land of *the value of* one 'cumhal,' or a land of *the value of* thirty 'cumhals,' it is one custom that is for the entry. It is one custom, i.e. the law of the possession is the same according to the pleasant or delightful knowledge. Though the length of the 'foirge'-measure should be doubled, i.e., though the doubling of the 'foirge'-measure should take place throughout, it is so it will be.

Two horses in hand, i.e., *he is to have* two horses, *held by the bridles,* in his hand until he reaches the border of the land, and it is not free for them to unharness them there, and if they be unharnessed at once in the land there will be a fine of five 'seds,' i.e., half the freedom of the land, or it is the old land half free, for eating its grass alone, but fully free is the land of which the grass and the corn are eaten; but the land is half free of which the grass or corn alone is eaten Border, i.e., between the mound and the tillage. Worthy witness, i.e., pure witness to see that he entered lawfully into the land. That his legal right be ceded to him, if there be Feinechus, i.e., if the usage of the law

In C. 849, the reading is as follows:—"Dodin, dost thou know the customs of a making entry *on land?* Ninè said these words to his son. A wise man of the Ultonians said so to his son, i.e., Dodin, to teach wisdom unto him; so that he said, Dodin, said he, dost thou know the customs of the making entry *on land* with the Feini? What law does he mention here? Answer, the law of cattle possession, Query, what is the right form of this law, &c. ?"

Of taking lawful Possession.

chair do damtain do, ro bo coir dligeḋ do forba cuicṫi don ṫeċmaid medonaid a haithli na cet dechmaid. Muna be feineachar .i. mana roib fiar dligiḋ in fenechair do damtain do. Tellair iarfuidiu, .i. tall ata ler duit iarsin aníada frin a med o roind in da ṫeċmad, .i. a forba na ṫeċmaidi medonċi ocus i nindataċt na ṫecmaidi deidenche. Ceithri heich .i. ceithri eich airilṫinigud no dligud do brith leis ind i forba na ṫeċmaidi medonċi, .i. iraer doib a cosc isin fennann annsidhe, ocus noco faer romainn. Deigh fer fiadan .i. deidi dferaib isin fiadnaise do brith leat .i. trídi. Randta cormailiu .i. urranntair cormailiud na firinni accu, no in firinni acu co cormail. Tréide do dligeḋ dia nod be feinechar .i. madia roib fiar dligiḋ in fenechair do damtain duit, robu coir dligeḋ doi forba tréidi don ṫeċmaid deidenaig, a haithli na ṫeċmaidi medonċi, ut fuasna .i. amail ata romainn, ocus teit a nairiṁ araiḋ, muna tarlat for fuillead frisin gnuib ṫeċmad.

Crad naile o ṁnaoi, ocus tesus is tir a foircend na haoile, ocus anaḋ re la iarfuidiu, ocus ṫeċt is tir i foircenn na re la. Is a hoċt fanlaid ocus anaḋ ceiṫri la, ṫeċt anund iarfuidiu is aile déc famlaid dona.

Tellair iar fuidiu, .i. tall ata lear duit in adbul cindiud na tri ṫeċmad. A noige and ṫeċmad, i. i forba na ṫeċmaidi deidinċi. Ocht neich ailead, .i. oċt neich is e ní airilliugud no dligeḋ do brith leis co treib no ind in fennand da toisiṫin. Tréide fer fiadan, .i. tréidi dferaib isin fiadnaise do brith and. Lat do gnadaib feine, .i. let do na gnadaib uilid do reir in fenechair. Randta cormailiud .i. ut fuasna. Tul fuigeall, .i. madia roib fiar dligeḋ in fenechair do damtain duit tall, ata fuigeall uili duit i forba na ṫeċmaidi deidenċi. Munad be feineachar, .i. ut fuasna. Teċta tuinide, .i. teċtaigter tuiniud in fennand duit log biṫ aca firdechrain co dligeḋec fir in re sin. Co feis, .i. co laigi doib ann, .i. co mbiud cotlod. Conadoġ, .i. in terrsed. Co tein, .i. a hairbiatḋaḋ na srsidi sin. Co naitreib, .i. co treib anait do tigib do denam doib. Co torsuime .i. cethra do breiṫ lat ind do toisiṫin. Acht tir cuind cetcolaig .i. ise ceta fuc trian dib a neise, .i. in fennann ar ar laegetur na cotnaig a cet cusa ceilsine .i. tir dibad coitcind, uair noco neicen arad teora ṫeċmad imesein, na techtugad do breiṫ indti, aċt a roind fo cetoir, no comairium do breiṫ indti; aċt in fennand do berar ar óin no ar fochraic, is ind berair in teċtugad. No imtelgad mbroga, .i. dun cen feilb no cell cen faiṫċi oc na bi brug dia nimtelgud, .i. in fennann ac na bi faiṫċi re breiṫ cethra ind da teċtugad, amail ata Dun Crailli, uair is daine

[1] *Two male witnesses.* In O'D. 414, the following is added:—"The honor price of each of whom is equal to the value of the land."

[2] *Three.* 'Tréide' is an underlined gloss apparently by the same hand as that which wrote 'deide' over the line.

[3] *Twelve days.* This paragraph is found in the lower margin of col. 2, page 7, of the MS. E. 3, 5, in the hand of one Donnchadh, dated at Moin na caor, 1542.

[4] *The land of Conn Cet-Corach.*—In C. 851, this is explained "Tir rig, the land of a king." In O'D. 415, it is called the 'dibadh'-land of the 'daer-stock tenant,' and it is there added, "the force of 'acht' 'except' here is, it is not cattle that are brought

of the Feinechus be granted to him, the *benefit of* law should be given to him at the end of five days of the middle ten after the first ten. If there be not Feinechus, &c., i.e., if the usage of the Feinechus law has not been ceded to him. He returns after that, i.e., within thy welfare lies after that point of time, from the division of the two tens, i.e., from the end of the middle ten and the beginning of the last ten days. Four horses, i.e., he is bound or obliged by law to bring four horses with him into it, at the end of the middle ten days, i.e., it is free for them to unharness them in the land in this case, and it is not free in the former instance.[a] Two male witnesses,[1] i.e., to bring with thee two men to bear testimony, i.e., three.[2] There is a similar division, i.e. they divide what seems like the truth, or they have the truth to all appearance.[b] In three days to be conceded to him, if the Feinechus be submitted to, i.e., if the custom of the law of the Feinechus be ceded to by thee, it is right to give him *the benefit of* the law at the end of three days of the last ten, after the middle ten, ut supra, i.e., as it is before, and the notice goes into the reckoning, unless it is given as an addition *mentioned in the notice* to it that it is ten days.

[a] Ir. *Before us.*

[b] Ir. *Similarly.*

A notice of two days *is given* by a woman, and she comes into the land at the end of the two days, and there is a stay of six days after this, so that she enters upon the land at the expiration of the six days. It is thus eight days and a stay of four days, she goes over after this, it is thus twelve days.[3]

He returns after this, i.e., within *the territory* thy welfare lies concerning the full determination of the three ten days. At the end of ten, i.e., at the expiration of the last ten days. Eight horses he is obliged to have, i.e., eight horses is what he is bound or obliged by law to bring with him to the house or end of the land to regain it. Three men witnesses, i.e., three men as testimony to be brought thither. With thee of the Feini grade, i.e., with thee, of the grades which are according to the Feinechus. There is a similar division, i.e., ut supra. Speedy judgment, i.e., if the custom of the law of the Feinechus be ceded to thee, within *the territory*, every decision lies for thee at the end of the last ten days. If there be not Feinechus, i.e., ut supra. Lawful possession, i.e., the possession of the land becomes legal for thee when thou hast been legally viewing it during that time. With sheds, i.e., for their lying there, i.e., that they may sleep. With cows, i.e., the cattle. With food, i.e., the feeding of that cattle. With habitation, i.e., to erect a habitation of houses for them in which they may remain. With attendance, i.e., to bring cattle with thee into it for relief. Except the land of Conn Cetcorach,[4] i.e., he was the first that obtained the third of the 'dibadh'-land in Eirin, i.e., the land on which the sensible adults sent their first obligations of tenancy, i.e., a common 'dibadh'-land, for a notice of three ten days is not necessary concerning it, or to bring requisites for taking possession into it, but it is to be divided at once, or equal stock is to be brought into it; but *as to* the land which is lent or let for rent, it is into it the requisites for taking possession are brought. Support of a mansion, i.e., a 'dun'-fort without land, or a church without a green, which has no mansion to support it, i.e., the land which has no green into which cattle might be brought to take possession of it,

here to take possession of it, but persons, i.e., a 'dun'-fort without land, or a church without a green." 'Conn Cet-Corach,' appears to mean, "Conn of the first contract," i.e., who put the first contract, or engagement ('cor') upon the tenant.

Of taking lawful Possession.

berar da techtugadride. Noch ír nemead. .i. no in ferand ara fíracomaltar cír do neimed, amuil ata Tír Mugain no Rot Comairi. Ír ar in tealltach fo, .i. ír ar in techtugad fa toibgiter cach ferann i mberar cethra da techtugad do reir in fenechair.

Crui tire, .i. tellach ír in tír im ataat crui. Inaenan main .i. ni hinand mogaigur maine do neoch tellach i tír co cruib ocus i tír cen cru .i. noco noen inand lim do beir mougad maineċ ar fer in ferainn im ic fet fir im techtugad in ferand co cruib ime aici ocus cen cruib ime, acht ír mo do berair co cruib ime aici; no noco naenan inand lim do beir mougad ar in fer berur techtugad do breith ind co cruib ech aici ocus cen cruib ech, acht ír mo do berair co cruib ech aici. Mad la buar, .i. mad leir in buar do ní in ag boir berur im techtugud. Cumal a fe flaindter, .i. airneidter cumal fe mbo a techtugud tire cen cunn cen coibní. Munab fo feilb, .i. man abar ired a ferand bodein fo techtaigertar he, ír ann ata fín. Gen cund, .i. cen cunn coibiallura. Gen coibne, .i. cen coibintedair .i. naem ocus firen. Dílri buair berair, .i. dílri in buair berair ír in techtugud ninoligeċ fe taeb na cumaile fomainn.

.i. Cumal fe mbo fo, ocus ír cuma ata fín a techtugud tire co cund co coibne, no cid a techtugad tire gen cunn gen coibne; no dono, ír cumal fe mbo i techtugad tire cen cunn cen coibne, ocus cumal tri mbo irin techtugad aili.

Mad tar lan ime do na huairlib, ocus ír tír gen cunn gen coibne, ír cumal ocus dílri nairme. Mad ar leit ime, ír tri cethruimte cumaile ocus tri cethruimte na hairme. Mad gein ime itir, ír leth cumal ocus leth nairme. Cipeam nama do compogail, amuil fo fairfium, do na hirlib, ocus leth cumal mad a cain. Mad tír co chund co coibne, ír dílre na hairme co cumal dar lan ime, tri ceathraimte tar leth ime ocus leat cen ime itir; ocus ír inann ata fo do irlib ocus do uairlaib.

Mad anfir do narob tír co cunn, ír leth friaċ uad, no amuil tír co chund.

[1] *Which is a 'Nemheadh'-person's.* The reading in C. 851, is "no cir neimid, or the rent of a Neimidh, i.e., land of which it is due."

[2] *With fences around it.* 'cru ime,' may mean also "a fence, *which is* a paling."

[3] *Of horses.* The word 'ech' was not translated by Dr. O'Donovan: it is here rendered "horses," its meaning in modern Irish, a meaning also found frequently in the Brehon Laws—vid. C. 1,248, 1,990; O'D. 2,085. That horses were required for taking possession in some cases is evident from this and several other passages in the present tract.

such as Dun Araill, for it is persons that are brought to take possession of it. Which is a 'Nemheadh'-person's,[1] i.e., or the land by which the rent of the 'Neimhedh'-person is truly secured to him, such as Tir Mughain or Rot Admairi. It is by means of this entry, i.e., it is by this form of taking possession every land is taken possession of into which cattle are brought to legalize the possession according to the Feinechus. OF TAKING LAWFUL POSSESSION.

Land which has fences, i.e., an entry on the land about which there are fences. It is not equally the property *increases*, i.e., it is not equally property increases for one *who has made* entry into a land with fences and into a land without fences, i.e., I do not deem that thing the same which brings increase of wealth to the owner of the land as to paying 'seds' to him for taking lawful possession of the land with fences around it[2] and a land without fences around it, but more is given for land with fences around it; or, I do not deem that the same which brings increase to the man who brings means of taking possession into it with cattle of horses and without cattle of horses,[3] but it is more when he has cattle of horses. If it be with kine, i.e., if it be with cows he enters to take lawful possession. It is a 'cumhal' that is mentioned, i.e., a 'cumhal' worth six cows is mentioned *as brought* to take possession of a land without chief or tribe alliance. Unless it be in a *lawful* possession, i.e., if he says it is his own land that he has taken possession of, it is in that case this is so. Without a chief, i.e., without a chief of the same tribe. Without a tribe, i.e., without agreement, i.e., of saints and just men. The cows which are brought are forfeited, i.e., the cows which are brought as unlawful means of taking possession are forfeited, together with the 'cumhal' aforesaid.[a]

[a] Ir. *Before us.*

That is, this is a 'cumhal' of *the value of* six cows, and this is equally *given as the fine* for taking possession of land which has[b] a chief and a tribe, or for taking possession of land which has not[c] a chief and a tribe; or, *according to others*, it is a 'cumhal' of the *value of* six cows for the taking possession of land which has not a chief and a tribe, and a 'cumhal' worth three cows for the other possession-taking.

[b] Ir. *With.*

[c] Ir. *Without.*

If the nobles have entered[d] over a full fence, and it is a land which has not a chief and a tribe, it (*the fine*) is a 'cumhal,' and forfeiture of stock. If *they have entered* over a half fence, it (*the fine*) is three-quarters of a 'cumhal,' and three-fourths of the stock. If *they have entered on land* which has not any fence at all, it (*the fine*) is half a 'cumhal,' and half the stock. The stock only is to be equally divided as we have said, by the plebeians, and half a 'cumhal' *is the fine if it be* in 'Cain'-law. If it be land that has a chief and a tribe, it (*the penalty*) is forfeiture of the stock with a 'cumhal' *fine, if entrance be made* over a full fence, three-quarters *if* over a half fence, and one-half if there be no fence at all; and this is the same with respect to plebeians and nobles.

[d] Ir. *For the nobles.*

[e] Ir. *For.*

If it be unknown to him *who entered* that it was not a land that had a chief, it is half fine *that is paid* by him, or, as in land that had a chief.

Of taking lawful Possession.

Gne aile: Mad tír co cunn co coibne, dia mbed crai, ir cumal; muna bed ir let cumal, ocus ir coitceann indrin itir freal ocus uaral. Dia mbera air áin for airím teachta do dainaib ocus eachaib ocus buaib, ir dilig uile có ro log cumaile dia mbed crai.

Muna bed, ir let cumal. Mad ba beirear ocus eich óga, ocus ir luga nad log cumaile, ir dilgi na hairme do thocaire, dia mbed crai; muna bed, ir let dilgi nairme ocus cumal a etho-caire, dia mbed crai. Muna bed crai, ir let cumal.

Tír cen cunn cen coibne, dia mbed crai, ir cumal ocus dilgi nairme do uairlib, ocus let cumal ocus let dilgi nairme, muna bed crai. Mad do irlib co croaib, ir lan dilgi nairme. Muna bed crai, ir leith dilgi nairme.

O'D 417. [Munur fo feilb techtaid.

.i. Munur a richt a feruind fein techtus i techtuga tire cen conn cin coibne, itir cain ocus urruduis, .i. munur do faige felba act for eicín.

Tír cen conn cen coibne, dilgi buair berur.

.i. Tír cen cunn comrialura rir, .i. lera, .i. fine, .i. cin coibnerta, act tetnuir ocus burba, .i. dilgi in buair beruir irin techtugad ninnoligtech re taob na cumaile romuinn, cid irlir cid uairlid, .i. ir dilef in buar uile, .i. in tan ir tír cin cunn cin coibne, ir dilgi nairme ocus na tri reoit a naithgin in réoir: no dono, ir tri reoit nama in tan na telcher tri iar ndeirecc co nach lair in tír, ocus ir log taige fo dera ainnrin: in tan imurro it dilgi nairme ocus na tri reoit, ime ninderuic i fodúin: mad leth ime imurro, ir let dilgi nairme i fodúin.]

[1] *If there be cattle.* Owing to the ambiguity of the term "crai," or "crui," it is very difficult to decide in some instances whether it should be rendered "cattle" or "a fence."

[2] *Are forfeited.* After "berur" in the MS. the words "inecur nechta" follow. They were not translated by Dr. O'Donovan, and their meaning is very obscure.

Another version—If it be a land that has[a] a chief and a tribe, *and* if there are cattle, it (*the fine*) is a 'cumhal;' if there be not *cattle*, it (*the fine*) is a half 'cumhal,' and this is common in this case both to plebeian and noble. Should he seize in one day upon a lawful number of people, and horses, and cows, they are all forfeit as far as the value of a 'cumhal' if there be cattle[1] *on the land*.

[a] Ir. *With.*

If there be not *cattle*, it (*the fine*) is half a 'cumhal.' If it be cows he brings, and he has horses, and it is less than the value of a 'cumhal,' the forfeiture of the stock is the leniency *of the case*, if there be cattle; if there be not, it (*the penalty*) is half forfeiture of the stock and a 'cumhal' in severity *of law*, if there be cattle. If there be not cattle, it (*the penalty*) is a half 'cumhal.'

In the case of land that has not[b] a chief and a tribe, if there be cattle, it (*the penalty*) is a 'cumhal'-fine and forfeiture of stock by nobles, and a half 'cumhal' and forfeiture of half the stock, if there be not cattle. If *the entry was made* by plebeians with stock, it (*the penalty*) is full forfeiture of the stock. If there be not cattle, it is forfeiture of one-half the stock.

[b] Ir. *Without.*

Unless it be into lawful land.

That is, unless it be on the supposition of its being his own land he brings his requisites for taking possession of land that has not[b] a chief and a tribe, both in 'Cain'-law and in 'Urradhus'-law, i.e., unless he seizes land by force only.

In the case of land that has not a chief and a tribe, the kine which are brought *thither* are forfeited.[2]

That is, land which has not a head of a tribe, i.e., well wishes, i.e., of the tribe, i.e., without relatives, but fierce and lawless people, i.e., the forfeiture of the kine which are brought to take unlawful possession, together with the 'cumhal' aforesaid, whether they (*the people*) be plebeians or nobles, i.e., all the kine are forfeited, i.e., when it is a land without a chief without a tribe, it (*the penalty*) is forfeiture of stock and the three 'seds' as compensation for the grass; or, *according to others*, it is three 'seds' only when three days are not allowed after the proof being had that the land is not his (*the claimant's*), and the price of theft is the cause of this; but when it is forfeiture of cattle and the three 'seds,' *there was* a perfect fence then; if, however, *there was only* half fence, it (*the penalty*) is forfeiture of one-half of the stock then.

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Tuinide raitaig a thiun fealba co dil no derorc. Teilgead ar threire, munab lair fobraid co tein co naithreib, co riaca faitce. Ite feich faithce fir tellaig indligaig; clithear fet, flaindte forgu na nuile; digu fet fomaine, la cornam con deithbire fir bera hai Sriam.

Tuinide raitaig .i. raitech arcnama methair .i. in tendaidi berar in ti dara teg in rot igin ferann co nice a thiam, ocus trocaire do ronad fir im a lecud co thiam in ferainn. Co dil .i. co dilud uad, .i. co dilod ar. No derorc .i. co deirbcindiud a airirme and. Teilgead ar threire .i. teilgitir he ar ar threir manab leir bodein in deisferann sin, .i. iar mbreithemnacht. Fobraid, .i. brug fuil fae. Co tein .i. co teinid do denam ann fir in re sin. Co naithreib .i. co threabaib inait do tigib do dénam ann fir in re sin. Co riaca faitce, .i. cor na riacaib bit aici for a faitce uad, da nderna indligeḋ techtaigḋi. Ite feich faithce .i. is iat so na feich uilet uad ar a faitci da nderna indligeḋ techtaigḋi. Clithear fet, .i. cleithe ar fet .i. loilgech. Forgu na nuile .i. in fet is firtogaidi bir ac na huilib, in tramhairc. Digu fet fomaine .i. in fet is ditogaidi fomaine ann .i. dartaid da frepall. La cornam co ndeithbire .i. don raitech .i. la deitbiur aici da cornam an ferainn don fir bera hai he .i. techtugad tire cen cunn cen coibni sin, ocus do cuaid ni iriad na co nice thiam in feainn. Fir bera hai Sriam .i. don fir bera ai in Sriam do berar na feich so uile.

1. Ire aithne in raitaig; duine lair so bai fechtar fine amuich cortharda, ocus ni fidir nach raibi ferann aige, ocus tic

1 '*Raitech*'-*person.* That is literally 'a roadman.'

2 *On the point.* In C. 851, the gloss is "co dil .i. co. ruchtar bret immi, until judgment, i.e. until sentence is given respecting it."

3 *Good land.* Over the 'o' of the word 'fobraid' is written the contraction for 'no' 'or,' and 'g' intimating that the last letter might be g.

4 *Under him.* This gloss in the MS. seems rather to belong to the preceding clause. Dr. O'Donovan however placed it as here given.

5 *The best sed:* 'clitar fet' is explained in C. 852, ".i. laulgach, no daum timcella arathar, no buo inlaoge, a milch cow, a ploughing ox, or an incalf cow."

6 *Had not land.* O'D., 418, adds here: "he is to give notice of ten days, and to go with all his property over *to the land* at the expiration of those ten days; and as

The possession of a 'raitech'-person[1] in the third of the land *holds* until judgment or decision *is had*. He is ejected after three days, unless he has good land with fire and habitation, with fines of a green. These are the fines of a green *to be paid* by the man who makes an unlawful entry: a 'sed' of the greatest value, styled the choicest of all 'seds'; the worst 'sed' for profits, with *the costs of* the necessary defence of the man whose property the ground is.

The possession of a 'raitech'-person, i.e. a 'raitech'-person suing lost property, i.e. the bold advance which a man whose house the road is, makes into the land until he reaches the third part of it, and it is mercy that has been extended to him in permitting him *to enter* as far as the third of the land. Until judgment, i.e. until judgment is given respecting him, i.e., until judgment is given on the point.[2] Or decision, i.e. a certain decision of his residence there. Ejected after three days, i.e. he is cast out after three days unless that good land belongs to himself, i.e. after judgment. Good land,[3] i.e. the land which is under him.[4] With fire, i.e. together with fire which has been made there during that time. And habitation, i.e. with habitations in place of houses which have been built there during that time. With fines of a green, i.e. with the fines which he has on his green to be paid by him, if he has made an illegal entry. These are the fines of a green, i.e. these are the fines which are *recovered* from him out of the green if he has made an illegal entry. The best 'sed,'[5] i.e. the best among 'seds,' i.e. a milch cow. The choicest of all, i.e. the 'séd' which is most to be chosen by all, *i.e.* the 'samhaisc'-heifer. The worst 'sed' for profits, ie. the 'sed' which is least to be chosen for profits, i.e. the 'dartaid'-heifer worth[a] two screpalls. With the necessary defence, i.e. *to be paid* by the 'raitech'-person, i.e. *he*, the man whose property it is, is under the necessity of contesting the land against him (*the 'raitech'-person*), i.e. taking possession of land that had not[b] a chief that had not[b] a tribe, and he went farther than as far as the third part of the land. The man whose property the ground is, i.e. to the man whose property the ground is all these fines are given.

[a] Ir. *Of.*

[b] Ir. *Without.*

Thus may the 'raitech'-person be known; a man who was up to this (*the time of the action*) abroad, *living* apart from the tribe, and who does not know that he had not land,[6] and he comes with

mercy is shown unto him at his going over, so mercy is likewise shown unto him by giving him three days for departing, when *it is determined that* the land is not his property according to law, and whatever part of his duty he neglects, there is no fine for actual-possession upon him, except these 'seds,' namely, an incalf cow, a milch cow, and a 'dartaidh'-heifer * * *

When it is *cattle for* taking possession the 'raitech'-person brings, mercy is extended unto him in permitting him *to enter* as far as the third of the land the first day; and when it *the penalty*) is a 'cumhal' and forfeiture of stock from another for

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co na hinḋilib, ocuṡ aṫberaḋ na comaiṫcaiṡ iṡ laiṡ in tiṡ, co nabaiṡ breiṫe a ḋul co trian in ferainn. Do ocuṡ famiṡc ocuṡ ḋaṡtaiṡ iṡṡeḋ icaiḋ a loṡ a foṡealta in tiṡe; ocuṡ teiṫgaiḋ aṡ treiṡi iaṡ nṡaiḋ eiṡ a ciṡt; ocuṡ iṡ tiṡ co coiḃne ḋo, aṡ iṡ ḋoiṡ laiṡ iṡ laiṡ; maḋ tiṡ co coiḃne imuṡṡo, iṡ ḋilṡi naiṡme, amuil ṡoṡaiḋṡium.

Ataiṫ tri ṡaiṫaiṡ ann; ṡaiṫeach aṡcnam a meaṫuṡ, ocuṡ ṡaiṫeaċ ḋeiṡṡe a meaṫaṡ, ocuṡ ṡaiṫeċ ṡiṡ; ocuṡ iṡ aiṡe a ḋeṡaṡ ṡaiṫeċ ṡeṡ in ṡí, uaiṡ iṡ leiṡ a cuiṫ ṡṡiṫḋe a ṡoiṫ, ocuṡ aṡ a coiṫṫinḋe. In ṫan iṡ aṫhṡaḃail aṡ ail ḋo ṡaḃail ḋo na ṡaiṫeaċaiḃ, ṡenmoṫa in ṡiṡ, aḃaḋ naili aṡ in ṡaiṫeach ṡṡaiḋ ṡlaṫha, ocuṡ aḃaḋ naen le aṡ in ṡaiṫeaċ ṡṡaiḋ ṡeine, ut ṡuppa ḋiximuṡ.

In ṫan iṡ ḋileaṡ an aiṡim o caċ, iṡ tri ṡeoiṫ o na ṡaiṫeaċaiḃ. Ac eḋṫocaiṡe ṡin; a ṫṡocaiṡe immuṡṡo, ini ḋe aṡ luṡa, ḋilṡi na haiṡme no tri ṡeoiṫ, co ṡabeaḋ beṡ uaḋa. No, tri ṡeoiṫ o na ṡaiṫeachaiḃ, ocuṡ ḋilṡi an aiṡme o caċ a teċtuṡaḋ co ṫriun ṡealḃa.

O'D. 419. [Slan ḋon ṡaiṫech cia teiṡ co ṫrian na ṡealḃa a tiṡ co conḋ co coiḃne, cen co tucca araḋ, uaiṡ nach tá tíṡ ḋia ḟulunṡ ṡṡi ṡe naṡuiḋ; tri ṡeoiṫ ṡaiṡ ḋia ṫe ni iṡ ṡía, no ḋia taiṡiṡi ḋall taṡ treiṡi iaṡ nḋeiṫin ḋliṡiḋ ḋó. Ocuṡ iṡ taṡ ėṡo, ocuṡ iṡ leṫh muna beṫ ṫṡui.

Ma tíṡ cen conḋ cen coiḃne, iṡ ḋilṡi naiṡme uaḋ amuil ċach: no ḋono, in ṡṡeim ṡaḃuiṫṫ na tri ṡeoiṫ iṡin cumuil iṡe ṡṡeim ṡaḃuṡ a aiṡemḟoiṁ i náiṡeṁ. No ḋono, in ḃail iṡ ḋiliṡ a aiṡem o ċach iṡ tri ṡeoiṫ on ṡaiṫech. Ac eṫṡocaiṡe, a ṫṡocaiṡe imuṡṡo,

unlawful possession-taking it is three 'seds' that are paid by the 'raitech'-persons; or rather the proportion which the three 'seds' bears to the 'cumhal' is the same proportion which his stock bears to the stock of all others. Or, indeed, *according to others*, when it (*the penalty*) is forfeiture of stock from all others, it is three seds from the 'raitech'-persons; this is the severity of the case, but its clemency is

his cattle, and his neighbours say the land is his, and judges tell him to go as far as the third of the land. He shall pay a cow and a 'samhaise'-heifer and a 'dartaigh'-heifer as the price for grazing the land; and he shall be ejected after three days after failing to establish his claim; and it is a land to which he thinks he has a hereditary right,[1] for he thinks it is his; but if it be a land to which he has not a hereditary right it is forfeiture of stock[2], as we have said *before*.

There are three *sorts of* 'raitech'-persons; a 'raitech'-person who gets into failure, and a 'raitech'-person who deserts at failure, and the king 'raitech'; and the reason that the king is called 'raitech' is because he owns his share of waifs of his road, and *also* from his generosity. When it is distress it is thought fit to take from the 'raitech'-persons, except the king, a notice of two days *is served* on the 'raitech'-person of the chieftain grade, and a notice of one day on the 'raitech'-person of the Feini grade, ut supra diximus.

When the stock is forfeited by *all* others, it is three 'seds' *that are paid* by the 'raitech'-persons. This is the severty of the case; but the leniency of it *is*, the part of it which is less, the forfeiture of the stock, or three 'séds,' it is it he shall pay. Or, *according to others*, three 'seds' *are due* from the 'raitech'-persons, and forfeiture of the stock from *all* others for *having come* to take possession as far as the third of the land.

It is safe for the 'raitech'-person though he goes as far as the third of the land in a territory that has[a] a chief and a tribe, even though he may not have given notice, because the land is not supporting him during the period of the notice; there are three 'seds' *fine* upon him if he goes farther, or if he remains within beyond three days after attending to the requirements of law. And *this is when he goes* over a fence, and it (*the fine*) is one-half of *three* '*seds*' if there be no fence.

[a] Ir. *With.*

If it be a land that has not a[b] chief and a tribe, it is forfeiture of stock *that is incurred* by him as by everyone else; or, *according to others*, the proportion which the three 'seds' bear to the 'cumhal' is the proportion which his stock bears to the stock *of all*. Or, *according to others*, where the stock is forfeited by everyone else it is three 'seds' *that are recovered* from the 'raitech'-person. This is the severity *of the case*, but its clemency is the

[b] Ir. *Without.*

that part of it which is less, the forfeiture of stock, or three 'seds,' *is due* from the 'raitech'-person for coming as far as one-third of the land, and forfeiture of the stock[2] from all others."

[1] *Hereditary right.*—'Coibhne,' seems here to mean a right to the land by descent.

[2] *Stock.*—The stock necessary in making a legal entry.

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Ataat teora aimsera insegair étdechta la feine: achgabail étdechta; tellach indligtech, comrug gen curu bel, no gan elod cu ndliged. So tuaithe, go breitheamain nad beir fiacha cach ae.

Ataat teora aimsera .i. am, re, ocus fír fudain; ataat teora re fudaine i nindraigenn nech ní ir indligthech do denam do neir in feneachair. Athgabail .i. cuic feoit inde. Tellach indligtech .i. techtugad indligtech do brith irin fedand .i. ba tar eis eochu, ocus ro geba eochu .i. cumal, no dílri buair, no tri feoit ind. Comrug gen curu bel .i. comruc do cru do for nech cen trebuire co coir o belaib aici re airec no re dligtin do in neid imarocair. No gan élod .i. no can elod do lecud im a cáin dligid, .i. arad na troigi ce do dechaid frir. So tuaithe .i. ir go do tuaith .i. na mor tuaithe, ocus don breithemain na bera eisic im cach nae im cach nogae dib sin, eid be dib cus a roirted.

Tosach Bescna so.

In ti do beir na techta feilb ar e do fon co fiacaib taige. In ti cheanar cen teol gen taigi, co nglaine cuibre, dilear dorude o dia ocus duine; diam slan a cubus bid slan a anum.

Eimide dono dianad forgeallar, ara feifear coir

[1] *The third of land.*—C. 852 reads, "i.e. the ninth, i.e. the third of the third of the tribe: he does not enter into the share of the chief or the church."

[2] *Forfeiture of stock.*—The 'airem' is the stock of cattle brought into land to legalize the possession.

[3] *The beginning of 'Bescna' here.*—In the MS. there seems to be no break between this passage and that immediately preceding, but on the margin the Irish for this heading is given. In other places in the same MS. similar marginal notes are found, where the original seems to be a continuous subject.

[4] *Right of covenants.*—In C. 853, there is a gloss on this text, and it is

smaller of these, i.e. forfeiture of stock, or the three 'seds'; or, *according to others*, it is three 'seds' from a 'raitech'-person, for *illegally* coming as far as the third of the land,[1] and forfeiture of stock [2] from all others.

There are three occasions on which illegalities are prosecuted by the Feini: unlawful distress; illegal entry; combat without verbal engagements, or not departing according to law. It is falsehood for the laity, it is falsehood for the judge who does not award fines for each.

There are three occasions, i.e. 'am', time, and 'sir' fixed; there are three fixed periods at which one sues the thing which is unlawful to do according to the Feinechus. Distress, i.e. five 'seds' *are the fine* for it. Illegal entry, i.e. to bring illegal means of taking possession into the land, i.e. cows after horses, when he could find horses, .i.e. *the fine* for it is a 'cumhal,' or forfeiture of stock, or three 'seds.' Combat without verbal engagements, i.e. to proclaim a battle against[a] one without proper security by word of mouth for restoring or righting the thing about which he gives the challenge. Or not departing, i.e. or without departure from the rule of law, i.e. warning or fasting though he was fairly met[b] *by an offer of arbitration*. Falsehood for the laity, i.e. it is a lie for the country, i.e. the great territory, and for the judge who does not award 'eric'-fine for each and every one of these *cases*, whichever of them they come to decide upon.

[a] Ir. *Upon.*

[b] Ir. *Though he was come against.*

THE BEGINNING OF 'BESCNA' HERE.[3]

He who gives property which is not lawfully his own shall pay the fines for stealing. *As to* the person who buys without stealing or concealment, with purity of conscience, it (*what he buys*) is his lawful property according to God and man; if his conscience be free, his soul is free.

Thou deservest whatever is adjudged; that thou mayest know the right of covenants;[4] that thou

said that "ᵹnu ꝑeꝑꝛ coiꝛ comnꝺomnnn" was spoken by Fergus, the poet, as equally applicable for every Brehon.

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comnadma, ara ruice fir fírfeam faigthe faer, faigaid in mearam cor comadair cach anaicaidtear ara taebtanair; ar ni feadar nad ailiugtear la feine do grer, daig fíne ocus firgiallna na maithri oiltrear; ar ate a tri ro fuigid do imthachaig cor.

In ti do beir na techta feilb, .i. in ti do beir ní do neoch, ocus noco na feilb bodéin techtus, acht o feilb gaiti in gataide. Ar e do fon co fiacaib, .i. ife icus he co fiaċaib gaiti. In ti creanar, .i. in ti cennaigter. Cen teol, .i. cen gaith .i. cen teol, toiblenann a gaith bunaid fo cetoir. Gen taisi, .i. cen dicheltaib, .i. dichelt a gaiti iardain. Co nglaine cuibre, .i. tri flan, gaibter funn aici in fet, no dia mbe trebuire, .i. cen enechlainn, cen fmacht cen aithgin mani taisitiger. O dia, .i. na hechlair. Ocus duine, .i. na tuaith. Diam flan a cubus, .i. can fir cubus braith aici.

Eimide dono, .i. foimdenaig, no urfoichli ma dia tirtar a fuigell do breithemnair. Ara feifear, .i. co feifesiu, no co roib a fir acut orduigad na cuma nascaireċta do rein ċoir. Aithuice fir, .i. corab e ni beras do neoch dul a nascaireċt if dir do dul re log enech. Fírfeam faigthe faer, .i. if fir lim faigid a hinsaigthi fin for na forferaib; no iffed ifaer duit dul fri log ċenech. In mearam, .i. ife ní ro meifemnaiged a hinde doib dul fair in ni ro cotaimfiged do réir ċoir, dul re log an enech. Anaicaidtear, .i. if e ní fonaircear in cach fin ar in taeb ro huceired do dul, tar cenn a comfraid. Ar ni feadar, .i. uair no con insaigthi do neoch dosfeg do rein in fenechair in ní nar eraluaiged do dul, re ní if mo na re log enech. Daig fíne, .i. dicsait in fine fo coraib, uair if michor do dul re ní if mo na re log a enech, .i. ma mo na log a eneċ, taitmig fine ocus maithre ocus flaċa. Ocus firgiallna, .i. na fir danada in giallad no in ceillfine .i. na flatha dicsait fo coraib. Na maithri, .i. if uillid in tres anad fíne machar, ac taidecht fo coraib. Ar ate a tri, .i. ar if iad ro in treid ro ramaiged no ro horduiged dempuaitred na cor ninolighecht do dena nech. Mara indeibir ro nuc uad, no ní fuigbed cia ro gell, ní gabar log uad ind itir. In tan nairchter in fiaċ, ocus if doig lair fogebad, no ro nuc deibir uad, a log do ic ind.

[1] *Firgiallna.*—In C. 854, this term is glossed "ced-giallnai."

[2] *The third.*—In C. 854, "oltres" is explained "a maithre quod tertium est." The translation here given of the term is only conjectural; the text appears defective, and the gloss seems to be a mere etymological analysis of the word 'oiltrear.'

mayest reach the truth, thou shalt sue the nobles, thou shalt sue for what is estimated in a meet covenant from all who are bound as sureties for their neighbours; for no one ever sues for more than is allowed him *as honor price* by the Feini, for the tribe and the 'Fir-giallna,'[1] *and* the mother's *tribe* shall interfere; for these are the three parties who are appointed to dissolve covenants.

He who gives property which is not lawfully his own, i.e. the person who gives a thing to any one which was not lawfully in his own possession, but in the possession of the thief by theft. Shall pay the fines, i.e. it is he shall pay for it with fines for stealing *besides*. Who buys, i.e. he who purchases. Without stealing, i.e. without thievery, i.e. without secrecy, *i.e.* who produces, (*i.e. discloses*) the original theft at once. Without concealment, i.e. without secrecy, i.e. concealing the theft afterwards. With purity of conscience, i.e. three sureties, *i.e.* he takes here the 'sed,' or if there be security, i.e. without honor-price, without 'smacht'-fine, without compensation, unless he has taken it. God, i.e. of the church. And man, i.e. the laity. If his conscience be free, i.e. having no knowledge of a betraying conscience.

Thou deservest, i.e. thou meritest or thou earnest if they have come to the decision of the judgment. That thou mayest know, i.e. that thou mayest know, or have a knowledge of the order or form of covenants according to justice. That thou mayest reach the truth, i.e. that it is the thing which gives one *the right* to enter into covenant that should go as his honor-price. Thou shalt sue, i.e. I deem it true that thou followest up thy suit upon the goodly men; or what is free to thee is to go *security* as far as the honor-price. What is estimated, i.e. the thing that was estimated originally for them is to go security for[a] the thing which was fixed according to right, *i.e.* to go *surety* as far as his honor-price. Are bound, i.e. that is what all bind on the person who was permitted to go *surety* for his equal grade. For no one ever sues, i.e. for no one is to sue at any time according to the Feinechus for a thing which is not permitted him to go *security for*, *i.e.* for anything which is greater than his honor-price. For the tribe, i.e. the tribe shall impugn[b] the compacts, for it is a false covenant for him to go *security* for anything which is greater than his honor-price, i.e. if it be greater than his honor-price, the tribe and mothers and chiefs dissolve it (*the contract*). And 'Firgiallna', i.e. the men to whom is due the service or the vassalage, i.e. the chiefs shall oppose the compacts. The mother's, i.e. the third[2] party are more numerous, i.e. the mother's tribe impugning[a] the compacts. For these are the three, i.e. for these are the three who were appointed or ordained to disturb the unlawful contracts which one shall make. If it was without necessity he gave a thing away, or he does not procure *a thing* though he promised, no price is got from him for it at all. When the debt is fastened, and he thinks he will get it, or he gave it away of necessity, its price is paid then.

[a] Ir. *To go with.*

[b] Ir. *Come against.*

[a] Ir. *Coming against.*

Of taking lawful Possession.

Ni nair uma na hairgead na hor, acht for mal; ní nair buar ba chindia for neach lair na biad ba; ní nair tir for imrumach, munar fotha fealb; ní nair edach for nach nocht, muna torma tlacht; ire grethe cen torad do gni ro coll brethi. Ite mearra ad gella a cumung do cach.

Ni nair, .i. ní ro fonairgriu in airgead no in or no in uma acht for in nuarail, uair ir aice bo doig a mbith, no ire bo doich da fagbail. Ní nair buar, .i. ní ro fonairgriu buar amuil in mbuar do berad ba chindia cennaide lair tairir ar in ti ac na biat ba, no na bad cuimgedi a fagbail co hurura. Ní nair tir, .i. ni ro fonairgiriu ferann for in ti bir for imrama a inad dinad, mana fothaigter ferann aici, no mana roib fearann aici da fochugad. For imrumach, .i. for foendlegach. Ní nair edach .i. ní ro fonairgriu etach for in duine bir lomnacht, mana roib etach aice da toiritin. Muna torma tlacht, .i. mani toir etach co heim. Ire grethe cen torad, .i. ire ní ata do rein ro ciallaide na mbreth; amuil ir etarbach grech na cno fairi cen torad aici, ir amlaid ir etarbach na neiche rin do denam. Ite mearra ad gella, .i. ire ní ro meiremnaiged do gellad do cach in ní ima cumtar he inigill, in ní biar aice .i. igred merraigur breitem a cumac do gill do cach.

.i. mar da fir no da anfir .i. fir ac feicheamain toicheda, ocus fir ac trebaire, no anfir ac feithemain toicead na rabadar na feilb na feoit rotingellta ann, ir for rait arra anarra. Marra anfirac feichem toicheda ocus firac trebaire, arcrenar odur airlicter.

O'D. 420. [.i. cach riach ingellur duine ocus bro ina fairdbre, no ir doig lair a fagail o neoch eile, ocus dia ti dedbir, no do mbeir uad iar rin, ir ann ir forleit arra anarra, acht imto cach ad innlime.

Cach riach ingellur na bro ina fairdbre, no nach doig lair a fagail, iri éirig amuil ro gell .i. in tan na bí i feilb in feicheman

[1] *Cinnia, the merchant.* In C. 854, the reading is buar bad Cinnia, and the gloss adds "Cinnia, for he was the first who brought cows into Erinn."

[2] *Blind nut.* "enghnge" is the reading in C. 854, and it is glossed "cnu caec,

Thou shalt not bind anyone to *pay in* copper, or silver, or gold, but a chief; thou shalt not bind anyone to *pay in* kine like those of Cinnia, who has not kine; thou shalt not bind anyone to *pay in* land, who is wandering, unless he possesses land; thou shalt not bind a naked person to *pay in* clothes, unless he has got raiment; it is as a nut without fruit to adjudicate in this manner. The promises of all should be adjusted to their ability.

Thou shalt not bind, i.e. thou shalt not impose *the payment of* silver, or gold, or copper, except upon the noble, for it is with him they are likely to be, or it is he that is likely to get them. Thou shalt not bind, &c., kine, i.e. thou shalt not impose *the payment of* kine like the kine which Cinnia the merchant[1] used to bring across with him, upon the person who has not got kine, or who cannot easily procure them. Thou shalt not bind land, i.e. thou shalt not fasten *payment in* land upon the person who is moving from place to place, unless it is found that he has land, or unless he has land to support him. Who is wandering, i.e. upon a wanderer. Thou shalt not bind clothes, i.e. thou shalt not bind *payment in* raiment upon the man who is bare naked, unless he has clothes to relieve him. Unless he has got raiment, i.e. unless he finds clothes quickly. It is as a nut without fruit, i.e. it is a thing which is according to the wisdom of judgments; as the shell of the blind nut[2] without fruit is profitless, it is likewise profitless to do these things. The promises should be adjusted, i.e. the thing by which the promises of all are to be estimated is the thing by which he is kept to his promise, *i.e.* the thing which he has, i.e. the Brehon estimates every one's promise by his power *to fulfil it.*

If by his knowledge, or by his ignorance, i.e. *if* the plaintiff have knowledge, and the surety have knowledge, or the plaintiff have not knowledge that the 'seds' which he promised on the occasion were not in his possession, it is upon the security of "'arra'-goods for 'anarra'-goods."[3] If the plaintiff be ignorant, and the surety has knowledge *of the fact,* the thing which is pledged is paid.

That is, every debt which a man promises when he is in his rich condition, or he thinks he will get it from another, and if necessity should arise, or if it should be afterwards taken from him, it is then it falls under "'arra'-goods for 'anarra'-goods."

In every *case of* debt which one promises who is not in a rich condition, or which he does not expect to get, the 'eric'-fine is as he

a blind nut; for it is of no profit to him who breaks it. It is so with a person who binds upon one a thing which he has not. For no one should promise a thing which he has not."

[3] '*Anarru*'-*goods.* Vid. vol. 3, p. 150, *n.* 'Arra' means the thing promised or a similar one, 'Anarra,' a different thing, as e.g. a 'cup' instead of a 'cow.'

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ocuṙ nocha ḋoiġ a ṙaġail ḋo, ocuṙ ṙo ṙiṫiṙ in ṙaiṫ, a íce amuil ṙo naṙcaṙ ṙaiṙ co loṙ ocuṙ aṙ.

Maḋ ṙo ḃui aiġe in ṫan ḋo ṙinne in cunnṙaḋ, ocuṙ ḋo ċuaiḋ ṙṙi ḋeċḃiṙiuṙ, iṙ ṙoṙeiṫ aṙiṙu anaṙiṙu, .i. in ṫan naiṙcṫeṙ in ṙiaċ, ocuṙ iṙ ḋoiġ laiṙ ṙoġeḃiḋ, no ṙo nuc ḋeċḃiṙiuṙ uaḋ, a loġ ḋia chind.

Maṙ indeċḃiṙiuṙ ṙuc uaḋ, no ni ṙuiġḃeḋ cia ṙo ġell, ni ġabuṙ loġ uaḋ inn iṫiṙ].

In longaḋ banḋaiġ bancoṙa a coibne coiṙ comaṙḋa, aṙa naiṙc ṙinnṙṙuṫh ṙinḋiġa [maniṙ ṙe ṙei mbeṙa.] Do beṙt bṙi aṙ bancoṙa. Oṙḃa maíne meṙ coiṙce o ṫa cach cind comṙocaiṙ; ṙo lin maine miḋiḋeaṙ o ṫa hinḋua co hiaṙmua, inġe cumal ṙenoṙḃa; ṙo miaḋ ġṙian ġenitheṙ. Finntiu ṙoṙ cul cumċitheṙ; ṫṙenib ṙine ṙoġlaiġċeaṙ; ġabul aṙta echtṙanḋa; maḋ ḋi cuicċe toṙmola. Imta ṙṙi cín comṙocaiṙ, maḋ ḋon tellach ḋeṙechtach; acht ceathṙuime ḋo ṙinḋṙine. O ṙecht ḋec ḋeilitheaṙ co nach ḋuthaiġ ḋo ṙíne. Fuiḋeṙ ní beiṙ cin comṙocaiṙ, muna cuic ṫṙeaḃa toiṙḃeanaḋaṙ. Ma cuic ṫṙebaiḃ comṙlanaiḃ conṙanḋat a ṙinnteaḋa.

In longaḋ banḋaiġ .i. eillġit a mic ocuṙ a ningena in ni ṙoṙ aṙ alṙat cuṙu a maiṫhṙe, .i. ineillġiteṙ na mna ṫechtugaḋ ḋo ḃṙeiṫh iṙ

[1] '*Coibne*'-*property*, vid. p. 31. *Supra*, n. 1.

[2] *Unless he be the sixth.* This clause in the Irish is supplied from the lower margin of the first column, in E. 3, 5, p. 9.

[3] *Ibid.* In the MS. the letters a and l of 'alṙat' are marked in a way which seems to denote that they should be transposed.

promised, that is, when it is not in the possession of the debtor, and it is not likely to be got by him, and the security knew it, it is to be paid as it was bound upon him, with addition and increase.

If he had it (*the property*) when he made the contract, and it passed away *from him* by necessity, it (*the case*), is according to "'arra'-goods for 'anarra'-goods;" i.e., when the debt is fastened, and he thinks that he will procure it (*the thing promised*), or necessity has carried it from him, he is forgiven the value.

If it be not necessity that carried it away from him, or he cannot procure it though he promised, no value is taken from him for it at all.

Heirs of females claim on rightful covenants of equal value made with a female *ancestor*, relative to 'coibne'-property[1] for the fair-chief of the tribe confirms the subject matter, unless he be the sixth.[2] Brigh pronounced judgment on female covenants. Lands are estimated by their stock from every related head; they are estimated according to the amount of their property from the great-grandson to the great great-grandson, except in regard to the 'cumhal senorba'; according to the size of the land it (*the 'cumhal-senorba'*) is produced. The tribe property is claimed backwards; it is divided between three tribes; an extern branch stops it, if the five persons *of the 'Geilfine'-division* perish. Except as regards the liability of relationship, if the family become extinct; except a fourth part to the 'Findfine.' From seventeen men out it is decided that they are not a tribe-community. The 'fuidhir'-tenant does not bear the liability of relationship, unless there be five houses to relieve each other. If there be five houses with complete stock, they share the property of the tribe.

Heirs of females claim, i.e. their sons and their daughters claim the thing which the contracts of their mothers bind,[3] i.e. the women claim to bring means

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in ferann ar ar laeṡet na mna aili a fir ċuru. A coibne coir comarḃa .i. amlaiḋ ro coibindṫigeḋ a comarḃugaḋ for coraib do neir ċoir. Ara naisc finnfruth .i. is e in fruiṫ taitnemach bir, .i. flaṫai Geilfini is fonaiscer in trian mara orba cruib no fliarta he, no is fonaiscer in ferann uile mara ferann tucad. Manis fe fei mbera. i. manar e in féiseḋ fer is e berus in diḃaḋ .i. manab e in feiseḋ fer deċ a Geilfine, in deinḃfine fonaiscer coimgi an Geilfine, aċt neċ do cuicser na Geilfine. Do bert Dri ar bancora .i. telach ind .i. do briethemnaigeḋ do Drig in ferann ar ar laeṡet na mna aile a fir ċura. Orba maine mes coisce .i. in ferann ar ar meisem corach a main a mathair, no mair a mathair, .i. Maer ingen Coṫṫaig Cailḃreg .i. rig eirenn.

.i. Orba cruiḋ ocus ṫfliarta na mathar funn, ocus diḃugaḋ ro diḃaiġi in maithir, ocus ní fuilit mic aċt ingeana nama. Ocus beraiḋ in ingean in ferann uili co fuba ocus co fuba, no a leṫ gan fuba gan fuba; ocus coimde fuisse re aireac uaiṫe iar na re.

O ta cach cind comfocair .i. o ta airmeir dam do diḃaḋ cach cind dar comfoicsiḋ in ferann; in Geilfine uili ro diḃda and, acus in ferann uile do breith don ingin a dualgus bancomarbair; no o ta airmeir dam do diḃaḋ in cind dar comfoicsiḋ in ferann, in ingin, is ann comroindsir in ferann fo na teora finib. Fo lin maine .i. meisem-naigeḋ maine in ferann fo imat na fine iar ndiḃus na hingine. O ta hindua .i. na Geilfine .i. is iat ro diḃda and, no is iat comroindser in ferann. Co hiarmua, .i. na deinḃfine. Inge cumal fenorba .i. ingi ar aċt, ata aċt lim and, aċt in cumal fenaigeḋ don orba rain, feċtmaḋ tire diḃaiḋ, ocus a bith feic a laim fliaḋa Geilfine ac urrnaiḋi

[1] *Of equal value.*—In C. 854—the following explanation is given: "Comarḃa, .i. dicunt alii 'comorbe,' i.e. the thing which was in the possession of the mother is what the daughter claims, or the thing which the mother gives and bequeaths to her."

[2] *The fair chief of the tribe confirms.*—In C. 855—the following reading of this gloss is given. "Ailiter ar in naisc, finnfruth, i.e. the 'Finnsruth Feinechuis,' of the 'Geilfine'-division, are as the five brothers, like as the five fingers of the hand, each of them obtains the 'dibadh'-land of the other.

For it binds, i.e. no one shall take unto himself *to make up* the 'Geilfine'-division any one of his tribe in general, although there should be but one man of the five brothers alive except himself, i.e. the son of the man who has the 'dibadh'-land shall not obtain it, i.e. he is the sixth in relation to the five; he shall not alone obtain the 'dibadh'-land which his father holds, but the sons of his brothers *shall share it with him*, but it shall be divided among all after the death of the man who obtains the lands of his extinct brother. The 'dibadh'-land of the deceased shall be shared by the sons of his other brothers, for the right to it

of taking possession into the land about which the other women made true contracts. Rightful *covenants* of equal value[1] relative to 'coibne'-property, &c., i.e. according as it was stipulated that it shall be adjusted by compacts according to justice. The fair chief of the tribe confirms,[2] i.e. it is the pleasant senior, i.e. the chief of the 'geilfine'-division is he that confirms the one-third, if it be 'cruibh'-land or 'sliasta'-land, or it is he that confirms all the land, if it be land that was given. Unless he be the sixth, i.e. unless he be the sixth man, it is he that will obtain the 'dibadh'-land, i.e. unless he be the sixteenth (*sic*) man removed from the 'geilfine'-division, it is not the 'deirbhfine'-division shall confirm the power of the 'geilfine'-division, but one of the five men of the 'geilfine'-division. Brigh pronounced on female covenants, i.e. there was an entry in the case, i.e. judgment was passed by Brigh touching the land about which the other women made their true contracts. Lands are estimated, i.e the land about which contract was made by her mother Main, or her mother was Maer, i.e. Maer, the daughter of Cobhthach Caelbregh, i.e. King of Erin.

The 'cruidh' and 'sliasta'-land of the mother is here *referred to*, and the mother had died and left no sons, and there are no sons, but daughters only. And the daughters shall obtain all the land with *obligation to perform* service of attack and defence, or the half of it without *obligation to perform* service of attack and defence; and there is power over them to *compel them to* restore the land after their time.[3]

From every related head, i.e. as I am about to tell concerning the 'dibadh'-land of each chief to whom the land belonged; all the 'geilfine'-division here became extinct, and all the land is obtained by the daughter in right of her female 'coarb'-ship; or as I have to tell concerning the 'dibadh'-land of the head (*chief*) to whom the land belonged, i.e. the daughter, it is then the land is divided among the three tribes. To the amount of their property, i.e. the property on the land is estimated according to the number of the tribe after the extinction of the daughter. From the great grandson, i.e. of the 'geilfine'-division, i.e. it is they who have become extinct, or it is they shall divide the land. To the great great-grandson, i.e. of the 'deirbh-fine'-division. Except the 'cumhal senorba'[4], i.e. 'inge' for 'except,' I make an exception here, but the 'cumhal' which is reserved of that land, the seventh of a 'dibadh'-land, and this is in the possession of a 'geilfine'-chief

is not more inherent in his son than in all, as is set forth in the 'Corus Fine'-law.

[3] *After their time.*—O'D. 421, adds here, "ocuṙ ıṙ é ṗlaıṫ ǥeılṗeıne naıṁeṙ e; and it is the chief of the 'geilfine'-division, who binds it" (*obliges the daughter to give back the lands*).

[4] *The cumhal senorba.*—In C. 856, the following note is added, which is not found in any other of the copies:

Except a 'cumhal tsenorba,' i.e. a chief head of a family who sustains the companies attending the king and the bishop and who is substantial to bear liabilities. When the 'deirbhfine' obtains the 'dibadh'-land of the 'geilfine,' all their number present give the worth of a 'cumhal' of land to this man, and to every other head of a family whatever, one after another, who is not near enough to be one of the tribe. The reason that it is given to this man is because he is bound to pay for the liabilities of the family. See also C. 2183.

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Fuidri ocus gormic. Ocus is e cuit in aét and, uair noco bia comroind uirriride, no noco bia itir hi no cor dibda in fine uile; ocus is ar sin gabar cona beit in cumal trenorba no cor dibda in fine uile.

"Moirfeirsiur norbeir co mbuaid,
"Cumal trenorba ni fuaill;
"Mic na tri cetmuinntir caom,
"Is mic adaltraige imaraon;
"Fuidir ocus gormac glan,
"Ocus daor fuidir, in fechtmad.

Fo miad srian genithir .i. ada geinitreic fo uairletaid in ferann fo meit no fo laigid. Finntiu for cul .i. cuingiter duthcur na geilfine for culu do cum ndeirbfine a cuit de in tan comroindtir he fo na teora finib. Trenib fine .i. fodeiligtir in dibad itir na teora fine .i. deirbfine ocus iarfine ocus indfine. Gabul arta echtrand a .i. is gabul is echtrainn curtrarta do geilfine in gabal da nartaiter in ferann .i. in deirbfine. Mad di cuicde .i. is ann fo mad iar nec cuicsin na geilfine, is ann comroindtir in ferann fo na teora finib, ocus ni fuil bancomarba ann. Imta fri cin compocair .i. is amlaid sin atait re hic cinad a compocair, uair amuil comroindit in dibad is amlaid icsait in cinaid. Mad don tellach .i. mad iar ndeirach tellaig na geilfine ar a sirt, .i. ar a ferann, is ann comroindter he .i. in ferann fo na teora finib. Acht ceathruime do findfine .i. nocon fuil ni dindfine act ceathramad do dibad geilfine, i. in feifed rand dec. O fecht dec .i. o da na fecht sissu dec anunn, is an deiligter iat, conad duthaig fine iat o da sin amach act duthaig ndaine. Fuider ni beis cin compocair .i. gabla 7sil, .i. in fodaer, in daer aicinta, noco beisenn cinaid a compocair. Muna cuic threaba doisbeanad ar .i. mana rabat cuic threaba aici da doisiden, .i. in cuic raith cedach, ocus manab ac oen flaith beit. Ma cuic trebaib comflanaib, .i. ma comlanaigter cuic trebta caca daur dib in cuic raith cetach; dia mbe cuic fer dib ocus cet dindilliu o cach sin, beisid cach dibad ocus cinaid araili, amuil cach nusraid, o biar in cuic raith cetach acu ocus o bur ac oen flaith beit; ocus cethramtu cinaid usraid

[1] '*Gormacs.*'—That is, sons who support their fathers in old age, or sons of a sister.

[2] *Seventh.* The Irish of this passage is found in the left margin of p. 9, col. 1, of the MS. E. 3, 5.

[3] *Three tribes.*—C. 856—adds; "the three we mention here, i.e. the chief, the church, and the tribe."

[4] *Except a fourth.*—In C. 857—where there is a running commentary on this text, the following note is added here:—

"Except the fourth of the 'innfine'-division, i.e. after the extinction of the 'geilfine'-division, so that their abode is desert, then the 'deirbhfine'-division obtains all their 'dibadh'-land; but the 'innfine'-division gets a fourth part from

when petitioning 'fuidher'-tenants and 'gormacs.'[1] And the force of 'except' here is, because there is no division of this *cumhal*, or it shall not exist at all until all the tribe shall have become extinct; and from this is derived *the saying* that there shall be no 'cumal senorba' until all the tribe is extinct.

Seven persons obtain, with triumph,
The 'cumhal senorba,' not scanty;
The sons of the three first wives fair,
And the sons of the 'adaltrach'-woman likewise;
A 'fuidhir'-tenant and a fine 'gormac,'
And a 'daer-fuidhir'-tenant the seventh.[2]

According to the size of the land, i.e. this is produced according to the nobleness of the land as to greatness or smallness. The tribe-property *is claimed* backwards, i.e. thehereditary right of the 'geilfine'-division backwards to the 'deirbhfine'-division who have their share of it when it is divided among the three tribes.[3] The three tribes, i.e. the 'dibadh'-land is divided between the three 'fine'-divisions, i.e. the 'deirbhfine'-division, and the 'iarfine'-division, and the 'innfine'-division. An extern branch stops it, i.e. the branch by which the land is detained is a branch that is hitherto extern to the 'geilfine'-division, i.e. the 'deirbhfine'-division. If the five, &c., i.e. in this case, if after the death of the five persons which are the 'geilfine'-division, the land is divided among the three 'fine'-divisions, and *in this case* there is no female heir. Except as regards the liability of relationship, i.e. it is thus they are as regards the paying for the crimes of their relatives, for as they share the 'dibadh'-land so they shall pay for their crimes. If the family, i.e. after the removal of the family of the 'geilfine'-division out of their land, i.e. out of their territory, it is then it, i.e. the land is divided among the three 'fine'-divisions. Except a fourth[4] part to the 'find-fine'-division, i.e. there is nothing for the 'innfine'-division except the fourth of the 'dibadh' land of the 'geilfine'-division, i.e. the sixteenth part. From seventeen,[5] i.e. from the seventeen men out, it is then they are distinguished, so that they are not a tribe community from that out, but a community of people. The 'fuidher'-tenant does not bear the liability of relationship, i.e. the 'fuidher gabhla'-tenant, &c., i.e. the 'fo-daer'-person, i.e. the natural bondman does not bear the crimes of his relatives. Unless there be five houses to relieve, i.e. unless he has five houses to relieve him, i.e. the five who have stock *consisting* of a hundred *head of cattle*, and unless they belong to one chief. If there be five houses with complete stock, i.e. if the five houses, the five who have stock *consisting* of a hundred *head of cattle*, of each 'daer'-man of them be complete; if there be five men of them each man having a hundred of cattle, every one of them obtains *his share of* the 'dibadh' land and *pays for* the crimes of the others, like every free native, *i.e.* when they have the five stocks of a hundred *head of cattle* and are under one chief; and they shall pay the one-fourth of the crime of the free native, and the fourth part of the 'dire'-fine of the native free-

them of everything which is divided, both lands and 'seds.' In like manner are their crimes paid for.

[5] *From seventeen.*—From this out they do not obtain any share; for the 'geilfine'-division extends to five, the 'deirbhfine'-division to twelve, the 'innfine'-division to seventeen men.

Of taking lawful Possession. ícur, ocur cethramthu dire dula urraid do ina duil. Conrandat a finnteada .i. ir taitnemach urrandus cach dib duthaig fine a cele.

Ni mac bratar finntiga fine fri fod frithmeara, munab neara fir coibnear mathair athair in oiba.

Horba mathar muncoirche a mic o flaithaib a arddthimna. Do airic a leath imurro do cum fine fir grian; a leath anaill a fir brethaib fil a feola fodlaigtear. Fine o cirt cobrainne. Nir tic do cert comfocair acht cert oiba mboaireth da recht cumal; comarda oiba biatach mboaireach; oiba for fet nimfaebair; ar da ranar leith dire.

Ni mac bratar finntiga .i. noco ne in mac foxlar duthcur fine a mathar uile, ni ir mo na frithmad dire dibad.

Mad oiba cruib no fliarta, no dilgthi dathair dia ingin ar duthracht, ir dilet o fine do macaib deoraid ocus muricairthi, cein beiti oc fognam de, co a ndibad no a ndeirge o fine. Mad mac imurro berur cetmuintiri do urraid, ir dilur da trian na horba ra do, uair berait mic na nurrad cinaid; mad mac imurro adaltraigi, ir let na horba ro do.

Fri fod frithmeara, .i. o fir meiromnaigter fine maithi bet a faitchiur fir.

.i. bancomarba fil runo ocus ferann athar ocus fenathchr aice re re, ocus gemad ail di a tabairt dia macaib ni tibrea.

Munab neara fir coibnear, .i. manip nera a coibner in ferann do mathair inna dathair, manib oiba cruib ocus fliarta don mathir he; uair marbad, berait in mac rann de fo aicned cetmuintiri urnadma no adaltraige.

[1] *The true judgments.* In C. 859—the following note is added here:—

"A female heir is here referred to, and her tribe are not bound to restore to her. It is after her death it is divided between sons and brothers, for if the tribe were

man's beast shall be paid to *each of* them for his beast. They share the tribe property, i.e. it is delightfully each of them shall share the tribe property of each other.

It is not a son that obtains the property of a tribe in ground to be valued, unless the title to the land be nearer to his mother than to his father.

As to a mother's land her sons shall divide it from the days of her public testament. But the half of it reverts to the tribe of the original owner of the land; the other half according to the true judgments,[1] the seed of her flesh divide. The tribe *divide their portion* by just partition. There comes not by right of relationship but the right land of a 'bo-aire'-chief *to the extent* of twice seven 'cumhals;' similar are the 'biatach'-lands of the 'bo-aire'-chief: *as to* land given up for a road and respecting which there are obligations, it is to be restored; half 'dire'-fine is paid out of it.

It is not a son that obtains, i.e. it is not the son who takes the patrimony of the whole tribe of the mother, *he takes* no more than a seventh of 'dibadh'-land.

If it be 'cruib' or 'sliasta'-land, or land appropriated by the father for his daughter out of affection, it is forfeited by the tribe to the sons of *the husbands, being* exiles and foreigners, while they are doing good with it; they also have what the tribe leave vacant or desert. If it be a son that a first wife bears to a native freeman, the two-thirds of these lands are forfeit, because the sons of native freemen bear (*pay for*) liabilities; but if he be the son of an 'adaltrach'-woman, half these lands *are due* to him.

In ground to be valued, i.e. when it is truly estimated that the tribe of the mother are cognizant of it.

A female heir is here *referred to* who has had the father's and the grandfather's land for a time, and though she should desire to give it to her sons she shall not give it.

Unless the title to the land be nearer, &c., i.e. unless the claim to the land be nearer to the mother than to the father, unless it be 'crudh' and 'sliasta'-land of the mother; for, if it be *such*, the son shall take a share of it according to the nature of *his mother's contract, i.e. whether she be* a first wife of contract or an 'adaltrach'-woman.

bound to restore the land from her, no portion of it would be given to the sons afterwards."

Of taking lawful Possession.

Horba mathar muncoiriche, .i. in fernann ar ar meirem corach a main a mathair, ir maith do neach frir cuiretharcor. Amic o flaithaib a airdthimna .i. buthe a macaibri a cuit de on lo do rigne a timna co hard, .i. ir la a macu o laidaib a bair .i. orba cruib ocus fliarta rannfair isunn amuil rannfair cinaid romaind, .i. bancomarba dono

C. 859. aníriu, ocus ni thig [a fine tairic ndi], mad neara in findiu do mathair in mic ar bancomarbus ina dia athir, ir and inarbenadaide a fine o a cirt comrainde, ar irred a cetrom a findiu do breith ar fine. Do airic a leath, .i. airictir a leth imurro in fir srian dia fine. Ocus ir e cuit in imurro ann, uair fernann na fine seo, ocus orba cruib ocus fliarta romaind, .i. ir e cuit in imurro, noco naircenn ní dfernann a athar do bi ina laim, ocus airci a fernann dilus fen. A leath anaill, .i. a leth aili do rein na firbrethamain. Sil a feola fodlaigtear .i. fodeiligter eirric do fil a feola, da clainn. Mac adaltraigi urnaidma ocus fine frin, ocus a roind ar do eturru. Fine o cirt cobrainne, .i. in fine tic dia cumaroind do rein cirt, ocus ifri frin a coibraind o fine tir da fecht cumal do ingin in boairech ir fern. Nir tic do cert comfocair, i. ní tic do comoicsiud de do rein cirt. Acht cert orba mboairech .i. act mad fernann in boairech, .i. leth norba an athar dia ingin iar ndibad, cen floiged, cen cir, cen congbail .i. tir ceithri fecht cumal ro bui oc an boairig ir fern and. Da fecht cumal comarba .i. do comarbaigeb re da fecht do cumalaib conad he fernann da ndenann in boaire medonach, no in boaire ir tairre a bethgad. Leth in orba in athar don ingin iar nec inn athar; cen fuba cen fuba frin. Orba for fet nimraebair, .i. fernann do berar for conair .i. ime ada raebur, foebra la fine a cuingid cucu, foebrad leiri a airec uaidi.

.i. Fernann do berar ar canair airic, ocus aemaebar lair in ti na geibend for frat fuidre; ar aige eirnitir leth eneclann do neach, leath don ti do beir, ocus trian don ti da tabair. Eneclann don ti dombeir cinmota in feired fand déc ene-

[1] *The crime*, i.e. the 'eric'-fine for crime.

[2] *A female heir.*—This gloss is an addition by a later hand, and in smaller letters.

[3] *The half of it reverts.*—In O'D. 422, the following somewhat different explanation of this is given:—

"But the one half of it is restored to the tribe whose property the land is by right, i.e. it is divided into two parts, like every other 'dibadh'-land, when there are sons in question, and if there were *only* daughters they take the one-half of it during their time (*the term of their natural lives*) with an obligation of restoring it after

A mother's land, &c., i.e. the land to which claim is estimated from the wealth of the mother, it is wealth to the person by whom the contract is made. Her sons from the days of her public testament, i.e. her sons shall own her share of it from the day that she made her will openly, i.e. her sons shall own it from the day of her death, i.e. 'crubh' and 'sliasta'-land is here divided as the crime[1] is divided before, i.e. a female heir[2] is here *referred to*, and her tribe is not obliged to restore to her, if the tribe property be nearer to the mother of the son in female succession than to the father, it is then the tribe claim by their right of partition, for it is her duty to bring her tribe-property to the tribe. But the half of it reverts,[3] i.e. but the half belonging to the owner of the land is restored to his tribe. And the force of the *particle* 'but' here is, because this is the land of the tribe, and 'crudh' and 'sliasta'-land *are referred to* before, i.e. the force of 'but' is, that no part of the land of the father which was his possession reverts, but his own proper land doth revert. The other half, i.e. the other moiety according to the true judgment, or *according* to the true judges. The seed of her flesh divide, i.e. it is partitioned to the seed of her flesh, *i.e.* her children. The son of an 'adaltrach'-woman of contract and the tribe *are* here *referred to*, and it is divided into two *equal parts* between them. The tribe by just partition, i.e. the tribe come to make partition of it according to right, and in this partition the tribe gives a land of twice seven 'cumhals' to the daughter of the highest 'bo-airech'-chief. There comes not by right of relationship, i.e. there comes not of relationship according to what is right. But the right land of a 'boaire'-chief, i.e. except the land of the 'bo-aire'-chief, i.e. half the land of the father *goes* to his daughter after his decease, without *the service of* hostings, without rent, without refection; i.e. a land of twenty-eight 'cumhals' had been in the possession of the 'bo-aire'-chief of best rank, in this case. Twice seven 'cumhals,' &c., &c., i.e. it was adjusted by twice seven 'cumhals,' so that it is the land by which the middle 'bo-aire'-chief or the lowest 'bo-aire'-chief feeds her. Half the land of the father *devolves* to the daughter after the death of the father; this is without *the services of* attack and defence. Land given up for a road, and respecting which there are obligations, i.e. land which is given for a road, i.e. concerning which there are two obligations, an obligation upon the tribe to demand it back, *and* an obligation upon her to give it up.

OF TAKING LAWFUL POSSESSION.

[a] Ir. *Of.*

That is, land[4] which is given for a road is to be restored, and the obligation is on the person who does not receive it for the stock of the 'fuidhir'-tenant; it is by him half honor-price is paid to one, half to the person who gives, and one-third to the person to whom it is given. Honor-price to the person who gives it except the

their time, i.e. the force of the 'but' here is, he does not restore the land of his father which he had in his hands (*occupation*) but he restores his own proper land; or, indeed, their true land is restored to its tribe, and the force of the 'but' here is, for this is the land of the tribe, and it was 'crudh' and 'sliasta'-land we spoke of before.

"A land of seven 'cumhals' she had here and the half of it *goes* to her sons, and the half to her tribe, and she is an 'adaltrach'-woman *that is here treated of.*"

[4] *Land.*—This commentary is found as a note on the lower margin of col. 2, p. 9, of the MS. E. 3. 5.

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Claindi don ti da tabair, cinmotha feiriu .i. ni forith a bret ocus a tabairt amuil fo gab tir focraice no airbiata .i. oiba gaibter o flaith no o eclais. Berti imurro, munarogbat cuir in bancomarba lairin fine; berti fine man fo gabat cuir leo. Is imaebur sin ar da srenar letoire.

Ar da ranar leithoire .i. is arreic eirnither let ineich do roich don tir denecladnn diri .i. let a tire; a leat maill ar a tocur.

Cuich in imaebur a deis ann? .i. faebur lairin ingin ocus faebur lairin fine. Isred a deis dligedh, faebur lairin fine im airic don ingin in uair na bi mac ann tareis in athar, ocus faebur lairin ingin a airic arir don fine.

Slan fairgre mbrogaid mbruidrechta ingraide tire comdidan coimitheach. Ni direanar iar mo bi bliadain, acht beraib fochructa, ar nach cnead berlan re meraib is di caingean la feine.

Slan fairgre, .i. flanti aithgena a feoil a feraind on ti bis ac firdechrin in bruig frisi na coil dirgi, dia taid can acra co ro ara a sind for a feor. Ingraide tire, .i. ingraid a hindi a comaitidin in comaithchi ina tir, .i. da aichi no a tri etarbai itir do ceili. Ni direanar, .i. noco naidbul eirnither eiric ind iar firbith do i naitidin isin bliadain cen acra cor ara a sind for in fer sin arir. Acht beraib fochructa, .i. acht in fer do beir ar focraic do sein bafera gnae no aibind, uair ce beith nech a naitidin a fochreca cen a acra cor fara a sind for a feor, noco lugaidi dligur a fochraic dic sin. Ar nach cnead .i. ar nach cain hai feoil berlan re meramnact a acra de aca diultad, conac coir caingin ime do sein in feinechair, .i. itir crecht ocus fer ni hictar an aithgin acht dire na gona ocus marbt.

[1] *Half* '*dire*'-*fine.*—In O'D. 422-3, the following note is added:—"That is, half the thing which pertains to the land, i.e. half the part which is given to her out of her land, by the tribe, or indeed it is half to her out of her land property, i.e. it is out of that the one-half is paid by the person who gives, and one-third by the person to whom honor-price is given, except one-eighth to the person who gives honor-price, and one-sixth to the person to whom it is given, so that it is two-thirds of one-fourth of honor-price that is wanting to the person to whom it is given, which is equal to the one-sixth of the whole.

"Full honor-price *is given* to one for purity and worthiness and property, i.e. one half for purity and worthiness, and one half for property, both live cattle and dead chattels. The one-half which is on account of live cattle, i.e. the one-fourth of

sixteenth part of honor-price to the person to whom it is given, except one-sixth, i.e. its taking and its giving do not run like those of hired land, or refection land, i.e. land which is rented[a] from a chief or from a church. He (*the son*) takes it, however, unless the covenants of the female heir affect the tribe; the tribe take it unless they have verbal covenants. That is the obligation out of which half 'dire'-fine is paid.

[a] Ir. *Taken.*

Out of which half 'dire'-fine[1] is paid, i.e. it is out of this is paid half the part of the land which comes to her as honor-price, i.e. half her land; the other half out of her property.

What obligation is mentioned here? i.e. an obligation on the daughter and an obligation on the tribe. What the law says is, "let there be an obligation on the tribe as to restoring to the daughter when there is no son after *the death of* the father, and an obligation on the daughter to restore it (*the land*) again to the tribe.

In the 'Bruighrechta'-laws it is guiltless to look on cattle grazing on the jointly-fenced land of a co-occupant. Nothing shall be paid after the lapse of a year, but after the custom of hire, for every wound that is healed by arbitrators is not to be settled by the Feini.

It is guiltless to look on, i.e. restitution of the grass of his land need not be made by the person who is truly looking on the land, for whom it is not right to correct it, if it remain without being claimed until the top grows on the grass. Grazing on a farm, i.e. they graze the top *of the grass* in the land, the neighbour being cognizant of it, i.e. for two nights or three unprofitably on thy partner's land. Nothing shall be paid, i.e. 'eric'-fine shall not be paid for it after his being cognizant of it for a year without claiming, until its top grows upon that grass again. But after the custom of hire,[2] .e. but the grass which he lets for hire according to the good or pleasant custom, for though one should be cognizant of the hire without claiming it until the top grows on the grass, he is not the less entitled to have his hire paid to him. For every wound, i.e. for every damage to grass that is repaired by arbitration cannot be further sued for; 'de' is a negative, so that there is no further claim for it, according to the 'Feinechus'-law,[3] i.e. as regards[b] wound and grass, compensation is not paid, but the 'dire'-fine of the wound and 'smacht'-fine.

[b] Ir. *Between.*

honor-price, one-fourth for land and dead chattels, the half of that for land *alone*, so that it is the one-half of this is given to her, i.e. the sixteenth part. Or, indeed, it is a balance *that is struck* between land and dead chattels, or the one-sixteenth for either unless they are equalized according to arbitration."

[2] *But after the custom of hire.* In C. 859, the following note is given:—"But after the manner of hire. The custom of this is, whatever is contracted is enforced, but if no contract has been made, no payment is made, *so* the trespasses in the case of co-occupancy, unless they are claimed for within the year after the trespass, shall not be enforced."

[3] '*Feinechus'-law.* That is, whatever is submitted to arbitration and decided by it must be considered as finally settled. There can be no further appeal to the 'Feinechus'-law.

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.i. na cneda dono, munab acuirtur ria flainti, ocus ni ro gab deitbire, ni hicar aithgin acht colonn eric nama.

Ma ro follaiged in fear cin agra cur far in faer eile na inad, ir dilri na hai aithgina, ocus tairic in fmachta ir in ni rin; ata eric a fogla do dul a rurad o duine, ocus ir and ata aithgin do tuitim o duine tre na faill.

.i. Iread fuil funn, duine ro bai a naidtain fogla comicheara do denam frir, ocus ro bai a faill gen a tacra cor far a fer; ictair meic frir, ocus ni hictar aithgin, ocus ir e rin aen inead a ndilrigeann aithgin o duine a faill do denam, ocus ni hictar othrus irin faill.

Sir cach fendligedh cacha cruiche condealg. In tan ir dicindelg cach crich, ir and berar cach digeand co rig.

Sir cach fendligedh, .i. irutain cach fendeiligud, cach deiligud dib ro frir re ceile, no cach dligedh fen dib re ceile, no cach dligedh do reir na fen. In tan ir dicindeilg, .i. in tan na bi breithem ac in bidbuid no ac in feichemuin toicheda. Ir and berar cach digeand co rig, .i. ir ann berair cach dicenn cinaduir ocus breithemnair ar amur in rig, uair ir aici ir doig in tainchearach do bith. Digeand, .i. na dagadar da gleod.

Ni rig lair na biad geill i nglaraib, do na tabar chir flatha, do na eirenedar feich cana. In tan geibiur in rig ina mama ro, ir and do ranar dire rig, gen gae, gen earbrat, cen eirindrucur fri a thuatha.

Ni rig, .i. noco rig ir raiti rir mani rabat geill aice re comallad a rige no a ceilliine. Na tabar chir flatha, .i. daerraicillnecta, .i. braich. Feich cana, .i. fmacht cana. In tan geibiur in rig, .i. in tan gaibes in moamugad no in greim a dubramar romainn. Ir and do ranar dire, .i. ir and eirnitear enechann rig do co comlan, .i. na momodud ra, .i. giall, ocus cir, ocus fmacht. Gen gae .i. im breithemnur, no im gurtaonairi, no im eirindracur do denam do.

[1] *The wounds.* The Irish of these two paragraphs is found in the right margin of col. 2, p. 9, near the bottom.

[2] *His people.* See Vallancey Collect., vol. III., p. 89, for an attempt to translate this and other passages of the Brehon Laws.

That is, *as to* the wounds,[1] indeed, unless they are claimed for before they are healed, and no necessity interferes, no compensation is paid except body 'eric'-fine alone. OF TAKING LAWFUL POSSESSION.

If it has been neglected to sue for the grass until other grass grew in its place, it is *a case of* forfeiture of the compensation, and a repayment of the 'smacht'-fine for that thing; the 'eric'-fine for the damage becomes obsolete to a person, and in this case compensation is lost to[a] a person through his neglect.

[a] Ir. *Falls from.*

That is, the case here is *of* a man who was cognizant of the commission of a trespass of co-occupancy against him, and he neglected suing for it until the grass grew; sacks are paid for it, and compensation is not paid, and this is the only instance in which compensation is forfeited by a person through his neglect, and sick-maintenance is not paid for the neglect.

Constant is every old law of every territory of covenants. When any territory is uncovenanted, it is then every disputed case is brought before the king.

Constant is every old law, i.e. perpetual is every old arrangement, every decision of those which follow with each other, or every old law of them with each other, or every law according to the ancients. When uncovenanted, i.e. when the defendant or the plaintiff has not a Brehon. It is then every disputed case is brought before the king, i.e. it is then every disputed case of crime and judgment is brought before the king, for it is with him *the solution of* every difficulty is likely to be. Disputed case, i.e. the thing brought to be settled.

He is not a king who has not hostages in fetters, to whom the rent of a king is not given, to whom the fines of law are not paid. *But* when the king gets these submissions, it is then the 'dire'-fine of a king is paid, if he is free from[b] falsehood, from betrayal of his nobles, from unworthy conduct towards his people.[2]

[b] Ir. *Without.*

He is not a king, i.e. he is not to be styled king unless he has hostages for preserving his kingship or his tenancy. To whom the rent of a king is not given, i.e. *the rent paid on* 'daer'-stock tenancy, i.e. malt. Fines of law, i.e. the 'smacht'-fine of the law. When the king gets, i.e. when he receives the submission or allegiance which we have mentioned before. It is then the 'dire'-fine is paid, i.e. it is then the honor-price of a king is completely paid to him, i.e. these submissions, i.e. hostage, rent, and 'smacht'-fine. Free from falsehood, i.e. respecting judgment *passed*, or false witness *borne*, or impropriety

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Gen eathbhadh, .i. cen bhrath na nuabhal; ocus noco dligtecha do bhrath na nírneal. Cen eirindrucus, .i. im gurboirgell a dligidh, no im guin no im gaith for a tuathaibh; uair da roibh ní dib frin aice, noco biadh eneclann fris do co comlan.

Ataat frecht fiadhnaire forgeallad gach fris; frenadh do fodadh ar a nairlisi; cen fis, cen dligedh, dire aire, inge madh tar cert; maidm catha fair; nuna ina flaithius; dirce mbleicta; milleadh meara; feol neatha. Ite frecht mbeocaindle and fo forordnadh gach fris.

Ataat frecht fiadhnaire, .i. ataat a frecht amuil fiadhnaire forgles a gach for in cach ir fris. Senadh do fodadh, .i. frenadh na heclaisi dimpodh arr a uabal lis. Cen fis .i. im fiachaibh eicinnti .i. cen cert Cen dligedh, .i. im fiachaibh eicinnti do damhain doib. Dire aire .i. co hindligthech. Inge madh tar cert .i. inge ar acht, ata acht lim and, madh ar tairisin dligidh do, nocon indligtech eirium andraidhe. Maidm catha fair .i. re comlin a re dligthigh, .i. leth log eneich trethnair aire. Nuna .i. beth can ana, .i. gortha do bith ina flaithus. Dirce mbleicta .i. dirccae .i. bith can lacht .i. dircailar in lachta. Milleadh meara, .i. iar na taibrin, ocus milltir. Seol neatha, .i. feolad ar in netha, innarba, no fuaill bec don arbur do bith and. Ite frecht mbeocaindle .i. itiat fo anuas in frechta amuil cainnil mbi furfandus no faillrigther a gach for in cach ir fris.

Teora gua ata moam da fich dia for cach tuaith; fuilleam gu nadma; forgeall gufiadhnaire; gubreath ar fochraic.

Teora gua, .i. teora gua eim ir mera indechar dia for na tuathaibh. Fuilleam gunadma .i. fuillem loigidhechta do gabail ar gunarcaireacht, ocus noco dlegar a gabail cid ar firnarcaireacht .i. log do ar a rad ata a nadmaim cin co be. Da fich dia, .i. do figlann dia Forgeall gufiadhnaire, .i. in gufiadhnaire oroirgell do. Gubreath ar fochraic .i. na breitha gua do breith do ar deicsreic loigidheacta, ocus noco dlegar cid a mbreith an airci.

[1] *For hire.*—Vide Vall. Collect., p. 90, vol. iii. (No. X.)

done by him. From betrayal, i.e. without betrayal of the nobles; and it is not more lawful for him to betray the plebeians. From unworthy conduct, i.e. with respect to false decision of his law, or with respect to wounding or robbing his people; for if he had *been guilty of* any of these, he shall not have the honor-price of a king completely.

There are seven proofs which attest the falsehood of every king; to turn a synod out of their noble 'lis'-fort; to be without truth, without law, 'dide aire,' unless they (*the demands of the parties*) were beyond right; defeat in battle; dearth in his reign; dryness of cows; blight of fruit; scarcity of corn. These are the seven live candles which expose the falsehood of every king.

There are seven witnesses, i.e. there are seven things as it were witnesses which attest his falsehood against every king. To turn a synod out, i.e. to turn the synod of the church out of their noble 'lis'-fort (*meeting-place.*) Without truth, i.e. respecting certain fines, i.e. without justice. Without law, i.e. respecting ceding to them uncertain debts. 'Dide-aire,' i.e. unlawfully. Unless, &c., beyond right, i.e. "unless" for 'but,' i.e. I make an exception here, if it is after offering of law by him, it is not unlawful for him then. Defeat in battle, i.e. by an equal number in a lawful battle field, i.e. half his price of honor is taken away on account of it. Dearth, i.e. to be without wealth, i.e. that famine should be in his reign. Dryness of cows, i.e. failure, i.e. to be without milk, i.e. destruction of the milk. Blight of fruit, i.e. after its appearance, and it is *afterwards* destroyed *in the bud.* Scarcity of corn, i.e. the disappearance of the corn, the vanishing of it, or a small quantity of corn being in existence. These are the seven live candles, i.e. these above are the seven things, as if living candles, which expose or exhibit to view his falsehood against every one who is a king.

There are three falsehoods which God most avenges upon every territory; additional gain by a false contract; decision by false witness; false judgment *given* for hire.[1]

Three falsehoods, i.e. there are indeed three falsehoods for which God takes worst vengeance upon the territories. Additional gain by a false contract, i.e. to receive additional reward for a false contract, when it is not lawful to receive it even for a true contract, i.e. to get reward by his saying that there is covenant where there is none. Which God avenges, i.e. for which God showers down his vengeance. Decision by false witness, i.e. to approve of false witness. False judgment for hire, i.e. false judgments to be passed by him for a payment or hire, when it is not lawful even to pass them gratis.

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Atait ceithri natm nad feadad ciad roifcaidear; mud for a flaith; mac for a athair; manach for a abaid; ulach for araile mad an aenar. Ar fofuarlaice flaith, ocus fine, ocus eaclar cach fochar ocus cach nochar focerdcar for a meamra, acht ni forcongrad; ar ate teora natmand arra innrin naircaidtear la feine: cor for meamra eacalra, cor for fognamte flatha, cor for faenleazachaib fine. Ar do inntai flaith, ocus fine, ocus eaclair cach cor na toltnaigter; ar dlegar doibrium na be lobtaig cor, ar dia mbad lobtaig feon cor, ir and ni tinntatrom cuiu a memor.

Ar ir annrom i mbreitheamact cor la feine cuir trene. Ar ate cuir dreineacha la feine cach la fear dia urgaire, alaili dia forngaire, ar ar do ruide ata forcongair na durgair inn ruid contuaire.

Atait ceithri natm, .i. atait a cethrar do ni fonaidm, ocus noco ninfaigter oirro cia ro gabed imd iat, .i. cor for memru i necmair a cenn; taitchmigit na cind na cuiu fein mani bet tola doib, .i ir amlaid rin ata, no iman fmacht dic annro cen co hicar in aithgin. Ciad roifcaidear, .i. cia ro argitter forro. Mud for a flaith .i. fenfaid in flaith mad ail leis. Mac for a athair, .i. fic oc. Manach for a abaid, .i. co ra icat a cenna, .i. air ir indra don memor cachtad in cind gabid ima folta dib condaragbat a fridfolta. Ulach for araile, .i. dag fenfaid ime, .i. ulach bis cen fiadnu cid i madaine beit ir amlaid rin biar. Ar fofuarlaice, .i. nad bad machtad cen tobach doib dib, uair fofuarlaiced cad cor do gniat. Cach fochar, .i. cor comloigi. Cach nochar, .i. diubarta. Focerdcar for a meamra .i. ada cuitar for a momoltenechaib, for a memraib; cid dono ar na taitmezdair no na fenfaid in cundrad do dendair riu bodéin. Acht ni forcongrad, .i. act ini forcon-

There are four covenants which are not binding though they (*the parties*) are proceeded against; *that of* a bondman with his chief; *of* a son with his father; *of* a monk with his abbot; *of* an 'ulach'-person with another if alone. For the chief, and the tribe, and the church, will redeem (*rescind*) every good contract and every bad contract which are made with their subjects, except what they themselves order them; for these are the three defective covenants mentioned by the Feini; the covenant with a subject of a church, the covenant of a servitor of a chief, a covenant with fugitives from a tribe. For the chief, and the tribe, and the church, may annul every covenant *of this kind* to which they did not consent; for they are bound not to be remiss about covenants, because if they should be remiss about covenants, then they do not annul the covenants of their subjects.

For in the judgment of covenants with the Feini the covenants of three are difficult. The ternal covenants with the Feini are where one man commands it (*the covenant*) and another forbids, for to him is the command who has not forbidden what he has heard.

There are four covenants, i.e. there are four persons who make a covenant, and proceedings cannot be maintained *successfully* against them though they are sued for it, viz.:—a covenant with subjects in the absence of their chiefs; the chiefs dissolve these covenants unless they have given their consent to *the making of* them, i.e. it is thus it is, or 'smacht'-fine is paid in this case, though compensation is not paid. Though they are proceeded against, i.e. though they are sued. A bondman with his chief, i.e. the chief may repudiate it, if it so please him. A son with his father, i.e. sic oc. A monk with his abbot, i.e. until he pays for his crimes, for it is difficult for the subject to serve the chief who receives from him his property, until he receives his returns. An 'ulach'-person, i.e. because he will deny *all* about it, i.e. an 'ulach' who is without a witness, even though they be in the plain, it shall be so. Will redeem, i.e it is no wonder that they should not distrain them, for they redeem every contract which they make. Every good contract, i.e. every contract of full value. Every bad contract, i.e. frauds. Which are made with their subjects, i.e. which are put upon their dependants, upon their subjects; why then should they not dissolve or deny the contract which they should make with themselves (*the chiefs*). Except what they themselves order, i.e. but

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Gnáth bodein doib do denum re nech aile, uair noco cuimgech a taitmechrige, acht amuil do genat a cunnrad fen. Ar ate deora nadmand, .i. ar ate tri nadmann inrin fonairceter da nairneidenn in fenechas, ocus ir erbadach a ba a maith on ti do ní iat. Cor for meamna eacalra, .i. i necmaig. Cor for fognamde flatha, .i. cunnrad do denam fir in luchd bir ac fognam don flaith. Cor for faenleagachaib, .i. cor cuirtar ar na fannelodachaib bir don fine. Ar do inntai flaith ocus fine, .i. uair impaigid in flaith, ocus in eclais, ocus in fine cach cunnrad nach toltanach a memair, ocus ire cuit in ar and, uair i dubramar romaind ata tri nadmanna erra, .i. feoit uil itir fochaide and sin, ocus in ti ro frec a cuit de ir dilus uad he, ocus in ti na ro frec noco dilus uad he. Ar dlegar doib, .i. uair dlegar doibrium nar ab lentaig no nar lictaig ac tobach na cor nindligtech do niat a memair, .i. narbat liuntaig tobaig iar sir cor. Ar diambad lobtaig, .i. ar diambat laebtaig sium no diambat lictaig cen taidecht fo na coraib. Ir and ni tinntatrom, .i. ir ann sin ní tindtatrum, no noco tenndoirtit ar na cuir do niat a memair im taidecht futhaib.

Ar ir annrom, .i. uair ir do na neichib ir doilgi a mbreithemnur na cor do rein in fenechair. Cuir trene .i. cuir tri nech no tri nog. Alaili dia forngairi, .i. ac forcongair a denma .i. anncurgairi a nemdenma. Ar ir doruide ata forcongair, .i. ar ir do niadairin ata conad inand do neoch ocus do neich forcongair a denma mana derna urgairi a nemdenma.

Atait tri nadmanda la feine nad roitchead ní anaicaidter. Digaib do log eneach eilleach no feagad naidm for neach ro finntar for urfocra; naidm corura gaide la gadaige gin ni gada fadesin; forcraid coibche fri eachlaid; ar atait da achlaid cor la feine, bean frir tabar coibche naidnaigead, ocus fer do beir coibche mor fri baidrig for na fcara dilri. Ara ate

[1] *The ternal covenants.*—In C. 860, the following note is added:—

"Ternal covenants, i.e. of three persons, i.e. three contracts upon him, i.e. with a chief, with the church, and with an extern tribe, whichever it be his share is forfeit.

[2] *Forbids.* Dr. O'Donovan read as in the text the first syllable of the word 'anncurgairi'; in the MS. there is simply 'a' with two diagonal strokes over it; the usual contraction for 'n' being a horizontal stroke over the letter which 'n' should follow. The reading would thus be "ac urgairi." The reading in C. 860 is "forcongair."

what they themselves order them to make with another person, for they are not able to dissolve these, but as they would their own contract. For these are the three *defective* covenants, i.e. for these are the three covenants which are contracted of which the 'Fenechus'-law makes mention, and their 'ba' *i.e.* their good is defective from the persons who make them. The covenant with a subject of a church, i.e. in the absence *of the heads*. The covenant of a servitor of a chief, i.e. a covenant which is made with those people who are doing service to a chief. A covenant with fugitives *from a tribe*, i.e. a contract made with the fugitives who are of the tribe. For the chief and the tribe, &c., may annul, i.e. for the chief, and the church, and the tribe, abrogate every contract with which their subjects are not satisfied; and the force of the 'for' here is, for we said before there are three defective covenants, i.e. a 'sed' which is between (*owned by*) many persons is here *referred to*, and the person who sold his share of it, forfeits it, and *as to* the person who did not sell it, it is not forfeited by him. For they are bound, i.e. for it is right for them that they be not remiss or negligent in setting aside the unlawful contracts which their subjects make, i.e. that they be not remiss in setting them aside after knowledge of the contracts. Because if they should be remiss, i.e. for if they should be negligent, or if they should be remiss, and not impugn the covenants. Then they do not annul the covenants, i.e. it is then they do not set aside, or they do not abrogate the contracts which their subjects make, by opposing them.

For they are difficult, i.e. for they are among the things that are most difficult in the judgment of the covenants according to the 'Fenechus'-law. The ternal covenants,[1] i.e. the contracts of three persons or three parties. One man commands it, i.e. commands the doing of it, i.e. forbids[2] the non-doing of it. For to him is the command, i.e. for it is from that principle is *derived* that it is the same to one to command its doing and to forbid its non-doing.

There are three covenants with the Feini, which do not amount to the thing stipulated. It takes from the honor price of a chief who sues upon a covenant with a person who is known to be proclaimed; a covenant concerning stolen property with a thief, although he did not steal it himself; *to give* too great a nuptial present to an 'eachlach'-person; for there are two 'achlaidh' covenants with the Feini, *the case of* a woman with whom the nuptial present of a married woman is given, and *the case of* a man who gives a large nuptial present to a harlot for her lawful divorce. For these are the covenants

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cuip innpin naδroiṫeaδ co trian ro ruidigeaδ aniu-bartaib cor la feine.

Acht urgarṫa cor la feine, ni δileap ni gen airilliuδ, ar nach craiδe ip earlan íníaiδ a coibche, δligiδ slan craiδe a reip breitheaman, acht uair no urgairt no egmacht.

Atait tri nadmanda, .i. do ní ronaidm da nairneidenn in fenechup, ocup noco ro indraigset ini in aruicsetea iat, no in a ruca togait. Digaib do log eneach, .i. digbaid do log a enech in airech indraiget iat co fír do naċa δligenn, no ip throcad tar δligeδ, .i. in turrocraid; tiscait in fine fo ċoraib, .i. fir furfocra ac trebuiri in urraduir; no gin tuillmideċta a cain, ocup ní uil ac feichemuin toicheda; aithgin dic do trebuiri, ocup noco níctar ní rirrin trebuiri no co tairirtar in cintaċ. Naidm for neach .i naidm do taet do ċind ind aendleaġaiδ co nicann; digbaiδ dia einecland in meit ro δibartar dia tochur. Naidm corpra gaide, .i. ip eirindracup a fir coir dul a trebuiri re δilri in treoit gaiti tar cenn in gataidi cin cob gataidi he bodéin.

.i. Ni arδann trebaire ni and rin, ocup ce tarrraigtear gadaige ní hicann ní re fer medon gaide lan indligṫaċ, aċt muna fuil trebaire do re digbail a laim dic frir.

Forcraid coibċe .i. imarcraid coibċi don ti ar a neillgiter, amuil aire for each, uair ip forcraid ní rria itir aċt log a cenbair no a caille. Ar atait da achlaid cor .i. atá deidi ar a neillgiter cor, amuil aire for ech, da nairneidend in fenechapp, .i. da cor focerdaiter fri heċlacha. Dean frir tabar coibċe .i. in turnaidm nídnaiδi 7rl. Fer do beir coibche mor, .i. baidrech caċ be taide, no caċ ben deirge lainn, .i. urnaidm cen imrolta ar a cend. For na fcara, .i. ciaronairciter a δilri di. Ara ate cuip innrin, .i. ar ite cuip inrin ocup noco ro indraigter cío co trian na cor ndligṫeċ. Ro fuidigeaδ, .i. ro famaigeδ, no ro horδaigeδ a nurran eiperṫaib na cor da nairneidenn in fenechap. Acht urgarṫa .i. aċt na cuip urgairṫe fea anuar da nairneidenn in fenechup, uair taiṫchmiter uile iatfaide, .i. acht na cuip urgairṫi feo, ni δilef cen ni don airilliuδ do facbail fri curu beδ do reir na feine .i. trian. Gen airilliuδ .i. noco δilef ní itir cen a

[1] *In case of poverty.* In C. 2,742, 'uair,' as a degree of poverty, is distinguished from 'angbocht,' 'extreme poverty.'

[2] '*Eachlach-person.*' In C. 860, 'hechlagh' is glossed "'merdrech,' a woman to whom a 'nuptial'-present is given, .i. ip echluiġ cor inrin, she is an 'echlach' of engagements then," 'Merdrech' is the Latin 'meretrix.' *Vide* also, C. 264.

[3] *Forbidden contracts.* In O'D. 425, these forbidden contracts are said to be:—that of the son of a living father, that of a person without property, &c.

which amount only to one-third of what has been ordained in fraudulent covenants by the Feini.

Except the covenants which are forbidden by the Feini, nothing is due without deserving it, for every property which is unsafe is entitled, after nuptial present, to be safe according to the Brehon, except *in case of* poverty[1] or prohibition or want of *lawful* power.

There are three covenants, i.e. *there are three* who make contracts mentioned by the Feini, and they do not attain to the thing which they agree for, or as to which they got a choice. It takes from the honor-price, i.e. it subtracts from the price of the honour of the chief who sues for them, knowing that he is not entitled to do so, or it is fasting in excess of what is legal,[a] i.e. the proclaimed person; the tribe will oppose his contracts, i.e. the surety in 'urradhus'-law having knowledge of the proclamation; or he being without merits in 'cain'-law, and the defendant has not *knowledge thereof*, compensation is to be paid by the surety, but nothing is to be paid by the surety until the guilty person is apprehended. A covenant with a person *proclaimed*, i.e. a covenant which is made for a fugitive until he pays; it lessens his 'eric'-claim as much as it subtracts from his wealth. A covenant with a thief, i.e. it is impropriety *for one* who has[b] true knowledge to go security for the lawfulness of stolen property for a thief although he is not a thief himself.

[a] Ir. *Beyond law.*

[b] Ir. *In.*

The surety does not bind anything here, and though the thief be apprehended, he does not pay to the fully unlawful middle theft man, unless he has security for the payment of the emptying of his hand to him.

Too great a nuptial present *to an 'eachlach'-person*,[2] i.e. too great a nuptial present by the person of whom it is demanded, as 'a load on a horse,' for anything given to her is overmuch, except the price of her head dress or cowl. For there are two 'achlaidh' covenants, i.e. there are two of whom contracts are sued, like 'a load on a horse,' which the Fenechus mentions, i.e. two contracts which are made with 'echlach'-persons. A woman with whom the nuptial present is given, i.e. the unlawful contract, &c. A man who gives a large nuptial present, i.e. every secret woman is a harlot, or every woman who deserts her house is a strumpet, i.e. there is a covenant without property concerning her. For her divorce, i.e. when her right is due to her by contract. For these are the covenants, i.e. for these are the compacts which do not extend but to one-third of the lawful contracts. What has been ordained, i.e. what has been settled or ordained in the scale of estimating covenants of which the Fenechus treats. Except *the covenants* which are forbidden, i.e. except the above forbidden contracts which the Fenechus mentions, for they are all dissolved, i.e. except these forbidden contracts,[3] it is not lawful not to have a part of the thing deserved under expressed contracts according to the Feini, i.e. one-third. Without deserving it, i.e. nothing is lawful at all for which its full value has not been paid. For

Of taking lawful Possession. luad fola lanloigi dar a cend. Ar nach craidi, .i. cach craidi ber erlan infaid a coboigi cuir ocus cundarba. Dligid rlan craidi, .i. dligid rlaintiugugad a craidi amuil ir riar do breithemnaib, no amuil a dera in breithem ar a reir. Acht uair no urgairt, .i. tabairt, .i. naidm for nech ro ficir forfocra, .i. naidm corusa gaiti la gataide. No egmacht, .i. forcraid coibci fri heclaig, uair naidm indligeid rin, ocus noco nartaid ni, .i. ar eicin, no fal fir crenus i mbecluag, .i. cor da fochond co fir co trebuibi, no dond, cor for memru.

Ataid tri dond nadm nairchaidter la feine diceanglad a feicheamna: bean fri tabar coibche, indichlig feach a athair; mad ar dicell an athar, ar athair aen dan in coibche rin; cor focerdcar feach aga fine ada cora do beith oga; cor faerma focerdcar feoch fine nurnaige. Ar até donadmand innro diceanglad a feicheamna nadad cora do nadmaidm.

Ataid tri dond nadm, .i. tri nadmanda fonaircider idi da nairneidenn in fenechus. Diceanglad, .i. di aca diultad, cona cenglat na trebuibi na feicheamna dara tecaid cend, .i. cia focerdaider do aithbiar. Bean fri tabar coibche .i. manab comcineol, no manab coibci techta, cid comceneol. Mad ar dicell, .i. mad ar fath dichle in nathar do neter rin. Ar athair aen, .i. ir lair in athair a oenfer in coibci rin, ocus ir dilus in ben dond on ti dia tabar.

.i. Mad ro fidir in ingean conad ar daigain dithle an athar do gnetar fonaidm a coibce di, cid urruunnur no dleired in tathair don coibce, tuillter rir do fetaib ro dilrib na mna fein, co raib coibce comlan ann; ocus cia do gne in bean cinnta indleirdea coibce no urruunnur do coibce, ni hicann in tathair ni de; muna fidir imurro, in ingean com ar fad dithle do
O'D. 426. gnetea, [ir] rlan di, ocus icaid in ti do rine in turnaidm.

[1] *Contract and covenant.* In O'D. 425 "a coboigi cunnurta" is glossed thus: ".i. ima dibuirt ainfeda no trebuire do taidmiuch amuil ir riar do breithemuin .i. in trian cor mbel, oc in fir creanur facabar in trian. Fraudulent contracts as regards ignorance or security are to be dissolved as is the rule with the Brehon, i.e. the third of express contracts, with the man who buys the third is left."

every property, i.e. every property which is unsafe after her perfect dower of contract and covenant.[1] Is entitled, &c., to be safe, i.e. her property is entitled to be made secure according to the sentence of the Brehon, or as the Brehon shall say respecting it. Except poverty or prohibition, i.e. *as to* giving, i.e. a covenant with one who knows the proclamation, i.e. a covenant concerning stolen property with a thief. Or want of power, i.e. giving overmuch nuptial present to a harlot, for that is an unlawful covenant, and nothing renders it binding, i.e. by violence, or the bar (*barrier*) of a man who purchases for small value, i.e. the covenant of two sane persons with knowledge and warranty, or *according to others*, a covenant with subjects.

There are three covenants entered into by the Feini which the parties who have claims[2] dissolve—*that of* a woman to whom a nuptial present is given, if concealed from her father, (if concealed from the father, it is to the father alone this nuptial present is due); a covenant which is made without *the knowledge of* the chief of a tribe, who ought to be *present* with them; a contract of adoption which is made unknown to the petitioning tribe. For these are the bad covenants which the parties having claims dissolve, and which are not binding.

There are three covenants, i.e. three covenants there are which are fastened, as mentioned in the 'Fenechus'-law. Dissolve, i.e. 'di' is a negative, *i.e.* the sureties do not bind the parties for whom they enter into security, i.e. although it may be cast upon them as a reproach. A woman to whom a nuptial present is given, i.e. unless she be of equal family, or unless it be a lawful nuptial present though she may be of equal family. If concealed, i.e. if it be for the purpose of defrauding the father this is done. It is to the father alone, i.e. it is to the father alone this nuptial present belongs, and the woman is forfeited by the person by whom it is given.

If the daughter knows that it is for the sake of defrauding the father the covenant of her nuptial present is made with her, whatever proportion of the nuptial present the father is entitled to, he is to be paid it in 'seds' out of the woman's own lawful property, until a complete nuptial present is made up; and though the woman should commit a crime for which her nuptial present, or a portion of her nuptial present is liable, the father pays no part of it; but if the daughter does not know that it was done for the purpose of defrauding, she is guiltless, and the person who makes the contract *of marriage* shall pay.

2 *The parties who have claims.* The term 'ꝑeiċeamh' means either creditor or debtor. It is found also in the sense of an advocate or pleader. Here it seems to mean the persons whose authority was necessary to render these contracts binding.

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Cor focertcar reach aga fine, .i. in cor cuirtar rech in ogae bir don fine, .i. flaith geilfine. Ata cora do beith oga, .i. ir coru a bith aca denam. Cor faerma .i. in cor cuirtar firin mac faerma an fine, ocus ni ar feirm gaire o geilfine. Seoch fine nurnaige .i. rech in fine bir ac urnaide a cinad. Ar ate donadmand innro diceangladh, .i. uair ir iat ro na nadmann fonairceter atai; ocus de aca diultad, co na cenglat na trebuiri na feichemain tar a tecait cend. Nadad cora, .i. noco coir a fonairm.

Leath cacha cet coibche cacha mna dia haga fine, mad iar negaib a athar, mad he folo a chinaid; trian don tanirde, ceathruime don trearr coibche. Mad cumrcaidech co ndeithbire o ta fuide, confoglaigtear a comflechtaib feine; ar ita cuit a coibche cacha mna dia haga fine, amail fil a cuit a nabad baidride. Ir for fund do feiridear breatha buain ocus ambuain la feine.

Leath cacha cet coibche, .i. ni berar inro carad dilus don mnai. Ir aire ir lugu berair on mnai o mencnigter a lecud, corab lugaid leictear imad a aindille. Dia haga fine, .i. don ogae bir don fine.

.i. Muna marann in taithir a let altrum on aige fine, no leit iarsaid le ocus urnaidm do comchineol, ocus trian tinoil le do cum cach fir gur a racha; ocus cid minic do nitear a hurnaidm re haen fer, noco dlegar trian tinóil le act aen feacht. Ma mairaid imurro in tathair, a let iarid no leath altrum on athair, ocus urnaidm do comcinol; ocus trian tinoil le do cum cach fir gur a racha 7rl; amuil ata a mbretaib eidgid.

[1] *To the head of the tribe.*—The Irish gloss may also mean, 'to the most perfect person who is of the tribe.'

[2] '*Tinol*'*-marriage collection.*—'*Tinol*' was the collection of gifts which the relatives and friends presented to the woman on her marriage. Vide vol. 2, page 346, *n.* 3.

[3] *But once.* That is, if she was divorced and afterwards married to the same man. In O'D. 425, it is added that it is lawful to marry her to the seventh person; from that out, she is considered a 'gabul baidbe.'

[4] *Judgments of* '*Eidgedh.*' Vid. vol. 3, *pp.* 88–97.

A contract which is made without *the knowledge of* the chief of a tribe, i.e. the contract which is made without *the knowledge of* the head of the tribe, i.e. the 'geilfine'-chief. Who ought to be with them, i.e. it is right that he should be at the making of it. A contract of adoption, i.e. a covenant which is made with the adopted son of the tribe, and it is not for the use of future maintenance from the 'geilfine'-division. Unknown to the petitioning tribe, i.e. without the tribe which is petitioning for *the payment of* his crimes. For these are the bad covenants, &c., i.e. for these are the covenants which being made are again dissolved; and 'de' is a negative, *i.e.* the sureties do not bind the debtors for whom they enter into security. Which are not binding, i.e. it is not right to fasten them.

Half of each first nuptial present of every woman *is due* to the head of her tribe, if *married* after the death of her father, if it be he that had sustained (*paid for*) his crimes; one-third of the second, *and* one-fourth of the third nuptial present. If she goes away of necessity from that out, it (*the nuptial present*) shall be distributed according to the arrangements of the Feini; for a share of the nuptial present of every woman is *due* to the head of her tribe, as he has his share in the 'abad'-gains of a harlot. It is by this the judgments of every proper and improper woman are known among the Feini.

Half of each first nuptial present, i.e. this is not given until it is lawfully due to the woman. The reason that less is taken from the woman because she has been put away frequently is that the quantity of her cattle is left fewer. To the head of her tribe, i.e. to the head of the tribe.[1]

If the father is not living half *the price of* her fosterage *is paid* by the chief of the tribe, or, *according to others, she shall bring*[a] one-half price of fosterage in marriage with one of the same tribe, and one-third of the 'tinol'-marriage-collection[2] to every man to whom she goes; and however often she may have been contracted to one man, it is not required by law that she should bring the third of the 'tinol'-marriage-collection with her *but once.*[3] But if the father is living, her half fosterage-price, or half the *expense of her* fosterage is paid by[b] the father, in case of[c] marriage with one of equal family; and one-third of the 'tinol'-marriage-collection *is brought* by her to every man to whom she goes, &c., as it is *set forth* in the judgments of 'Eidgedh.'[4]

[a] Ir. *With her.*

[b] Ir. *From.*

[c] Ir. *And.*

Of taking lawful Possession.

Mad iar negaib a athar, .i. in ti ir nera ir ann ata rin. Mad he folo a chinaid, .i. mad he in taigi fine imfuilngeg a cinta. Trian don taniste, .i. ar in coibchi tanaiste, .i. ir in coibde tanaiste ir dá trian no beired a athair ann; ocus ir aire ir luga beired brathair olbar athair, uair ir luga ir oiderb lair urail na hingine im trian tinol da freisi a tochur uaithe. Mad cumscaidedh .i. i mbar, no corp nodarcarp, .i. uair ir e cuit in machtnaigthi, damad tre na hindeithbirthir do neithea in timgar na airgebad uadrum in cutruma do berad don coibche. O ta fuide, .i. o ta airnir dam do niadairin, .i. don indrcuchad co ndeithbire. Confoglaigtear, .i. ir cain fodeiligter hi a cuma flointdib in fenechair ima dul ir in roind ir nera. Ar ita cuit a coibdhe, .i. ar ata cuit i coibdi cadha mna don ogae bir don fine, amuil in cuit ata do a ndul cur in mnai mbaith cur athagar tar arad; ocus ir ar rin gabair, a bith do conici in aenmad rann fichit, uair ired rin ata do ir in meisrig a ndul cuici ar eicin, cid meisrech nad aedann; ocus fodail enechlainni do fo aicned a coibdelachair ina fodlaib aili. A cuit, .i. do fmacht. Ir for rund do feisdar, .i. ir for rann taisigter breta buain ocus ambuain na mban dligtech, ocus ambuain na mban nindligtech. Buain, .i. maith, .i. dagban. Ambuain, .i. olc .i. drochban.

If after the death of her father, i.e. in the case of him who is the next person *to the chief* this is so. If it be he that had sustained his crimes, i.e. if it be the head of the tribe that bears *the weight* of his crimes. One-third of the second, i.e. of the second nuptial present, it is of the second nuptial present her father, *if living*, would have had two-thirds; and a brother gets less than a father because he is less anxious to command the girl respecting the third of her 'tinol'-marriage-collection, if her property is gone from her. If she goes away *of necessity*, i.e. by death; or is divorced; for the force of the doubt is, if it be without necessity she separates, it shall not take away from him the proportion of the nuptial present which he would get. From that out, i.e. as I am treating of this case, i.e. the going away with necessity. It shall be distributed, i.e. it is fairly distributed according to the arrangements of the 'Fenechus'-law with respect to its going to the nearest division. For a share of the nuptial present, i.e. for there is a share of the nuptial present of every woman due to the head of the tribe, as he has a share for going to the lewd woman, to whom approach is had notwithstanding notice; and from this is derived *the custom* that he has it (*a share*) to the twenty-first *case*, for this is his right in the *case of the* harlot, for going in unto her by force, whether she be a harlot who sells or a harlot who does not sell; and the honor-price is divided by him according to the nature of her relatives, into other distributions. His share, i.e. of the 'smacht'-fine. It is by this are known, i.e. it is by this the judgments of the good and bad women are passed, i.e. of the lawful and unlawful women. Proper, i.e. good, i.e. of good women. Improper, i.e. of bad, i.e. of bad women.

breathe comaithcesa anoso.

JUDGMENTS OF CO-TENANCY HERE.

Breatha comaithcesa anoso.

Judgments of Co-tenancy.

Cid ar a neibenar comaithcer? Cumagnair andrin, ar in ni ir comaith gnair caich dia raili do lomrad fmaċta ocus cáiche; arail ir comaithcer ar in ni ir cuma no do gaib aire fri aithech, ocus airchindech fri bachlaċ.

Breatha comaithcera .i. breitemnur fo berar umun cumaiċecur, umun aiteċur cumaide, no umun cumagnar, umun gnar cumaide, .i. um an gnaċugaḋ cumaide.

Cid ar a neibenar comaithcer, .i. cid ar a raiter no ar a nairneidter in taitechur cumaide. Cumagnair andrin .i. gnaċugaḋ cumaide annrin. Ar in ni ir comaith gnair caich dia raili .i. ar ir commaiċ gnaċugaḋ cáiċ dib re ċéili. Smaċta .i. na méich. Cáiche .i. in riach duine caiċe .i. muna ndencar go dligeċ in comaiċcer Araili ir comaithcer .i. gne eile ir aiteċur cumaide. Ar in ni ir cuma no do gaib .i. ar in rat ir commeitt, no ir cutruma dlegur don aire graiḋ flaṫa a gabail rir in aire graiḋ feine, ocus airchinnech na cilli a gabail re baċlach ir in ċill.

Cairi,—can forbeir coimaithcer? Cid comarbur. Cia cruthraige? Conrandat comarba cetamur a randa ocus a realba, ocus imden cach dib fri arailе, ocus do beir cach dib diguin dia raile.

Cairi,—can forbeir coimaithcer, .i. comaircim canar a foirbre in taiteċur cumaide. Cid comarbur, .i. ar in ċaoin orbu uair, ar in fearann. Cia cruthraige, .i. cia gne frie. Conrandat comarba, .i. ir caoin urrannaitte na coiméteide orbu in fearann don cétna hamur lium airneir no innirin de. A randa, .i. tir ndibuiḋ. A realba, .i. fearann athar ocus senathur. Imden cach dib fri arailе, .i. dibi naġiḋa ċéili. Do beir cach dib diguin, .i. gell da rereapall re comall in comaiċcera, .i. di fo diultaḋ, conach roiċ cin indili ċaich do ċum a ċeili.

[1] *Airchinnech.*—The steward of the church lands, or the ecclesiastical holder of the church lands. He was a layman, but had *primam tonsuram*.

JUDGMENTS OF CO-TENANCY HERE.

WHY is co-tenancy so called? That is equal customs ('cumagnais'), because the customs are equally good for all reciprocally to levy 'smacht'-fines and penalties; *or*, otherwise, it is co-tenancy, because it affects the chief equally ('cuma') with the plebeian ('aithech'), and the 'airchinnech'[1] the same as the shepherd.

Judgments of co-tenancy, i.e. these are judgments that are passed concerning the common tenancy, concerning the holding in common, or concerning the common custom, the common usage, i.e. concerning the common custom *of holding land.*

Why is co-tenancy so called? i.e. why is the holding in common so called or denominated. Equal customs, i.e. that is common usage. Because the customs are equally good for all, i.e. because the usage is equally good ('commaith') for all reciprocally. 'Smacht'-fines, i.e. the sacks. Penalties, i.e. the fine for man-trespass, i.e. *which are imposed*, unless the common custom ('comaithces') is lawfully observed. *Or*, otherwise it is co-tenancy, i.e. another reason *why it is so called is*, it is a common holding. Because it affects, &c., i.e. for the reason that it is in an equal degree, or in the same proportion that the chief of lordly grade and the chief of the Feini grade are bound to receive it, and the 'airchinnech' of the church is to receive it the same as a shepherd in the church.

Question.—Whence does co-tenancy arise?—From several heirs. In what manner is this?—The heirs, in the first place, partition their shares and their possessions, and each of them guards against the other, and each of them gives *a pledge of* indemnification to the other.

Question—Whence does co-tenancy arise? i.e. I ask whence does the common custom arise?—From several heirs, i.e. from the noble heirs *encreasing* on the land. In what manner is this? i.e. in what way is this?—The heirs partition, i.e. the landholders fairly divide the land in the first place, of which I shall relate or tell. Their shares, i.e. their 'dibadh'-land. Their possessions, i.e. the father's or the grand-father's lands. Each of them guards against the other, i.e. each of them against the other. Each of them gives *a pledge of* indemnification, i.e. a pledge of two 'screpalls' to observe *the law of* the co-tenancy; i.e. 'di' is a negative, that *the fine for* the injury done by the cattle of each would not fall upon the other.[2]

[2] *To the other.*—There seems to be some error or defect in the MS. here.

JUDGMENTS OF CO-TENANCY.

Cairt—Cid dofet a comaicet? Dofet fand ime. Cach ime co na fmachtaib, cach taifgilli cona caiche; ar i mbiat fmachta ni biat caiche; i mbiat caiche ni biat fmachta. Imdingaib naidm naesaib.

Cairt—Cid dofet a comaicet, .i. comaircim cid ir remthechtaigh irin aithechur cumaide. Dofet fand ime, .i. ir remthechtaigid liumfoinn in fesainn da ime do denam. Cach ime co na fmachtaib, .i. cac ime dur in ni fmachtaigther asa denam, .i. namu fri claiz, froc fri corand, biail fri duirime, froba fri felma. Cach taifgilli cona caiche, .i. na meic .i. cach gell doirithnech no in fiach duine caithe. Cona caiche .i. gell da cesadl. Ar i mbiat fmachta ni biat caiche, .i. in uair biar ini fmachtaigther ann, in nanu ocus in froc fri corand, noca biad ini do berar ir na cintaib .i. na meic no in fiach duine caithe. I mbiat caiche ni biat fmachta, .i. in uair bet na meic no in fiach duinechaithe noca biad in namad fri claiz ocus in froc fri corad. Imdingaib naidm naesaib, .i. ir eim dingbaithes do rein nuasesa conac naidm narcaire uil re comallad in comaithesa, acht ma gell.

Cairt—Codentar comaicet? Anfantar aile ar threisi; ingaibtar aile ime dia cuicti; impocintar aile dia dechmaide; incomalltar og ime dia mir.

Cairt—Codentar comaicet, .i. comaircim cinnus do nithes in taithecur cumaide. Anfantar aile ar threisi, .i. usfannadar in fesainn uma ndentar in taile ar threisi. Ingaibtar aile ime dia cuicti, .i. gabur aile do denam i forbu cuicthi uime, ocus da lá dóibsi buain feada. Impocintar aile dia dechmaide, .i. fricindes im noct aile dó tocaid i forbu dechmaide, cinmótha in éis traigin. Incomalltar og ime dia mir, .i. comlanaigther in ime comlan do tocaidain a forbu in mís.

[1] *Pledge.*—'Targille' here signifies a pledge of two 'screpalls' lodged with a neighbour for the payment of damages.

[2] *Completed in a month.*—Dr. O'Donovan has made the following remark on this point:—"The language is here very rude and unsatisfactory. It could be im-

JUDGMENTS OF CO-TENANCY.

Question—What is the first thing in the co-tenancy?—The division precedes fences. Every fence is liable to[a] legal conditions; every pledge[1] to damages; where the requisites commanded by law are *observed* there are no penalties; where there are fines, the things commanded by law are not *observed*. The new custom avoids security.

[a] Ir. *With*.

Question—What is the first thing, i.e. I ask what comes foremost in the common co-tenancy?—The division precedes fences, i.e. I deem it foremost that the division of the land should be made before the fences. Every fence, is liable to legal conditions, i.e. every fence should be made by what the law commands, i.e. a spade for *making* a trench, a bar for a stone fence, a hatchet for a strong fence, a billhook for a 'felma'-fence. Every pledge to damages, i.e. the sacks, every relieving pledge, or the fine for man-trespass. To damages, a pledge of two 'screpalls.' Where the requisites commanded by law are *observed*, i.e. where the thing commanded is observed, *i.e.* the spade *for a trench*, and the bar for a stone wall, the things to be paid in for the faults are not to be given, i.e. the sacks or the fines for man-trespass. Where there are fines the things commanded by law are not *observed*, i.e. when the sacks or the penalties for man-trespass are *due*, the spade has not been *brought* for *making* the trench, and the bar for the stone-fence. The new custom, i.e. it is well avoided by (*according to*) new knowledge that it is not the warranty of a surety that is *given* to observe the co-tenancy *law*, but a pledge.

Question—How is a co-tenancy made?—It is divided in three days for the stakes; the fencing is begun in five days; the fence is finished in ten days; the perfect fence is completed in a month.[2]

Question—How is a co-tenancy made, i.e. I ask how is the common tenancy made?—It is divided in three days, i.e. the land on which the stake (*palisade*) fence is to be made is divided in three days. The fencing is begun in five days, i.e. the fence is commenced to be made at the end of five days, and two days *are allowed* to them to cut its wood. The fence is finished in ten days, i.e, it is truly finished as to its reaching *the condition of* a naked palisading at the end of ten days, excepting the blackthorn crest *at top*. The perfect fence is completed in a month, i.e. the complete fence is brought to its completion at the expiration of the month.

proved thus: Quære—How is a farm of common occupancy formed?—In three days the land is marked out for fencing. The fencing must be commenced in five days (of which two days are allowed for cutting the timber). In ten days the fences must be set up and finished, with the exception of the blackthorn crest at top, which must be completed a month after the work has been commenced."

JUDGMENTS OF CO-TENANCY.

Cairs—Cadiat smachtaime ocus comaicesa? Smachta ime, nama fri claiss, soc fri corad, biail fri dairime, fidbad fri felmad. Dairt cacha treisi nadimcoin naindse no seola fais. Ceithre ime do cuisin: claiss cosa, duisime, felmad. Ainaile, is dairt cacha treisi nadimcoin naindse fri cach nime.

Cairs—Cadiat smachta ime? .i. comaiscim cadiatna neče smačtaigčes ac denam na hime is in aidechus cumaide. Smachta ime, .i. is e ní smačtaigčes acu ac denum na hime. Fidbad fri felmad, .i. frisin fal maid, frisin nochtaile. Feis ocus ailiumandа co tarnačtain iar maidin, ocus ligi i ló ocus ruiriu aidči, riač feisi indtib uili, ailiim lai ocus ruiriu lai, ocus tairsce aidči, ocus ailiim aidči, leč riach feisi indtib uili. Dairt cacha treisi nadimcoin naindse no seola fais, .i. dairt cača treisi no međar air, munub i in ime is eim coin dó do sinne um a roimn. Ceithre ime do cuisin, .i. ceitre hime disernaigthes no đarsčudsus. Claiss, cosa, .i. claiss no cusu is in nočtmachaire. Duisime, .i. is in čaill, .i. nočtaile, no is in leč mačaire.

Mad fed a deis an fes amuis, is cuaille cétcintach, ocus ised a deis an fes tall ní dessa cin itir, is nech dia mbi log

[1] '*Feis*'-*trespass*, i.e. the lying down of a beast in a field after being filled to satiety. This was a definite trespass. All this is apparently misplaced. For definitions of trespasses, vide pp. 124, 126.

[2] '*Ruiriu*'-*trespass*, i.e. passing over fields. See p. 124, *et seq.*, *infra*.

[3] *The man outside*, i.e. the suer or plaintiff. Dr. O'Donovan remarks here, "It is very difficult to express these ideas neatly in English. The following may convey to the English reader a fair idea of the meaning:—

"If the suer says, 'This stake has injured my beast *once*; it is unlawfully con-

JUDGMENTS OF CO-TENANCY.

Question—What are the requisites commanded by law[a] of fences and co-tenancy?—The requisites for the fences are a spade for *making* a trench, a bar for a stone wall, a hatchet for a strong fence, a billhook for a 'felmadh'-fence. A 'dairt'-heifer *is the fine* for every three days that he (*the co-tenant*) has neglected to make the proper portion which had fallen to him. There are four *kinds of* fences which might be required—a trench, a stone wall, a strong fence, a 'felmadh'-fence; or else, *according to others*, it (*the fine*) is a 'dairt'-heifer for every three days during which he (*the joint tenant*), has not made the proper portion of every fence.

[a] Ir. '*Smacht*'. *fines.*

Question—What are the requisites commanded by law of fences? i.e. I ask what are the things which are commanded for making the hedge in the common usage. The requisites commanded for the fences, i.e. it is the thing which is peremptorily ordered for making the fence. A billhook for a 'felmadh'-fence, i.e. for *making* the good fence ('fal maith'), *i.e.* for the naked fence. ('Feis'-trespass[1] and leaping over fences, so that they are caught in the morning and lying in the day, 'ruiriu'-trespass[2] by night, and the fine for 'feis'-trespass *is paid* for them all; *as to* 'airlim'-trespass by day and 'ruiriu'-trespass by day and 'tairsce'-trespass by night and 'airlim'-trespass by night, half the fine for 'feis'-trespass *is due* for them all.) A 'dairt'-heifer for every three days during which he has neglected to make the proper portion, &c., i.e. a 'dairt'-heifer for every three days that he fails, if it be not the fence which is truly right for him he has made upon his division. Four fences which might be required, i.e. four *kinds of* fences are prescribed or required. A trench, a stone wall, i.e. a trench or wall on the bare plain. A strong fence i.e. in the wood, i.e. a naked fence, or in the half-*cleared* plain.

If what the man outside[3] says is, it is a stake of first fault, and what the man within says is, it is not in fault at all, the com-

structed, and I demand satisfaction for the injury,' and if the defendant denies that his stake is unlawfully formed or fixed, or that it could have done any injury unless unlawfully meddled with, then any person who has sufficient honour-price to qualify him may settle the dispute, and decide the satisfaction to be made for the first injury done by the unlawful stake, or declare that the stake is lawful, and that no injury has occurred by means of it.

"If the suer says, 'The stake is unlawfully made and fixed, and has now injured my beast for the second time, or the third time,' and the defendant replies,

JUDGMENTS OF CO-TENANCY.

éinech an aithgin fo biaid uaidi ina cét cinaid; cona derna cin itir, isan do.

Mad fed a deis an fer amuig, is cuaille decintaic no thecintach he, ocus a deis in fer tall is cuaille cétcintaic, is leith fir no lan fir do fcuis let dire no lan dire de; ocus aithgin uaid ina cét cinaid, ocus nocha gabann gheim ime dib tar eis duirime, uair línad duillebur in claiss, ocus bruith chainn an coiraid.

Cinta do niad na cethra in céin betar ca fairchrin, let a mbia ina nairlim ifed biar ina taithrci, is é airet teit in fuith co fuigi trí daiti, amail ata fmachtaib.

Araile, is dairt cacha threisi nadimcoin fainde fri cach nime, .i. gne eile, .i. is dairt ar cach threisi, munab i in roind is eim coir do do fugne dimid.

Cid fada co fo gabaid duine do laim tindfatain a coda do denam don coimaicer, nocha nfuil fmacht fair muna derna fogail, ocus da nderna, ica eitic a fogla. O gebus imurro, an duine do laim tinnfatain a coda don comaicer do denam, atá fmacht fair, .i. dairt cacha threisi, muna tainic; no ce tainig, muna derna ime; no ce do rinsi, muna be a roinn bodein fo imirtar; no cid hi a rand bodein fo imertar, munab i in ime is coir fo imertar; no cid hi in ime is coir do rinde ime, ma fo cuirertar fen aili ocus fen airbeid co tabairt taebad friu. Ocus in fmacht rin dic do co cend mir, ocus can ni dic o rin amach co cend mir aili. Ocus geall da fgrepall ó cach comaidtech ar delgain tigi a ceili fo coraib a lepta re comallad dligeid an comaicera; ocus cin co comaille, nocho ne an geall rin tuitis and, act an fmacht a dubramur romaind, no meich,

'No, this is the first instance that it has caused any injury,' the neighbours will then decide by compurgation, which has the truth on his side. If they decide in favour of the defendant, he shall make compensation for the first injury which is technically called the first crime of the stake.

"Fines do not lie for injuries done by any of the other fences from the firm or close wooden fence up, 'because,' says the commentator, 'the foliage fills the trench, and the trees break the stone wall.'"

pensation that is obtained from him for its first fault is for one that has honor-price *to decide* ;[1] if no fault at all has been committed, he is free *from blame*. JUDGMENTS OF CO-TENANCY.

If what the man outside says is, "it is a stake of two faults or three faults," and the man within says, "it is a stake of first fault," it is half proof or full proof that removes half 'dire'-fine or full 'dire'-fine from him ; and compensation *is obtained* from him for its first fault, and none of these fences, from the strong fence out, takes hold (*claims damages*), for foliage fills the trench, and trees break the stone wall.

As to the trespasses which the cattle commit while they are seen, half of that *fine* which lies for their 'airlim'-trespass shall be for their 'tairsci'-trespass, and the extent of its increase is to three 'dairt'-heifers, as it is in *other* 'smacht'-fines.

Or else, it is a 'dairt'-heifer for every three days during which he has not made the proper portion of every fence, i.e. another version, i.e. it is a 'dairt'-heifer for every three days, unless it be the division that is right for him, he has made of the fence.

However long a person may have delayed taking in hand to commence the performing of his share of the co-tenancy *duties*, there is no 'smacht'-fine upon him unless trespass has been committed, but if it has been committed, he shall pay the 'eric'-fine of the trespass. But, from the time that the man has taken in hand to begin to do his share of the co-tenancy *duties*, he is liable to 'smacht'-fine, i.e. a 'dairt'-heifer for every three days *of delay*, unless he has come ; or, though he has come, if he has not made a fence ; or though he has made it, unless it be his own portion he has fenced ; or though it be his own share he has fenced, unless he has made the proper *kind of* fence ; or though it be the proper fence he has made upon it, if he has put up old stakes or old poles, trusting to them *for a fence*. And he shall pay[a] this 'smacht'-fine to the end of a month, but shall pay nothing afterwards till the expiration of another month. And each co-tenant[2] shall place a pledge of *the value of* two 'screpalls' on one of the rack pins of each other's houses at the feet of the bed *as security* for the fulfilment of the *duties of* co-tenancy ; and though he should not fulfil them, this is not the pledge that shall be forfeited for it, but the 'smacht'-fine which we have mentioned before, or sacks, or fines for man-

[a] Ir. *Pays.*

[1] *To decide.*—There is some defect in the MS. here.

[2] *Co-tenant*, 'comaidċech' means also co-tiller, or co-grazier, or co-occupant.

Judgments of Co-Tenancy.

no fiach dumecaithe fo aicned na fogla, ma fo far fogail ann. Ocus is iad airm bís acu ac denam a cota don cómaicéf no an ime, fraiha fri claiss, froc fri corraid, biail fri duirime, froba fri felma. Ocus arnaic caich dib a laim a ceili is in aidche, co fo cumnigi leis tiachtain ar maidin do denam a cota don comaichéf; ocus in ti na tiucfa isfan a arnaic do caithem, ocus dia caitter arnaic neich, ata fiach foimrime uad. Ocus is e cois denma na clarach trí troigthi ina letet iar nuachtar, ocus da troig ar medon, ocus troig iar nichtar, ocus tri troigthi ina tarbe, ocus trí troigthi a letet an muir cuntar airti iar nichtar, ocus da troig ar medon, ocus troig iar nuachtar, ocus tri troigthi in airdi in muir, conad fé troigthe in airdi na clarach fain ocus in airde in muir ar a cind.

In cora imurro, tri troithe ina letat iar nichtar, ocus da troig ar meodan, ocus troig iar nuachtar, ocus fé troigthi ina hairdi.

In dairime imurro, is amlud dletar a denum fride; barr in croinn ar bun in croinn eile, ocus cona tira in tarc bec tricha ar dluichi, na in dam tarair ar airdi.

Inochtaili is amla dletar isride; troig co nderl nordun itir gach da cuaille, ocus fe troigthi ina hairde, no da dorn dec, ma do dornuib toimistar; is tri bunchuin fair, bunchur fair iar nichtar, ocus arcile ar medon, ocus araile iar nuachtar, ocus ad itir gach da bunchur; ocus dornn fot in chuaille o fean amuin, ocus cis troigen fair iar nuachtar; ocus tri beimnea a ceand gacha cuaille conar na fada ar tús amail conicefa.

Inada i ndletar na imed fin .i. clair no corad is in machaire, ocus nochtaile is in letmachaire, ocus dairime is in caill. Ocus cutruma i nairdi uile.

[1] *His victuals.*—The word 'arnaic,' here translated, 'victuals,' occurs under the forms 'earnach,' 'ernach' and 'ernaic, in a paragraph on co-tenancy, in the "Finnsruth Fithil," (O'D. 1556), where it is added, that if a man's 'ernac' be used "he is not entitled to compensation, nor to a fine for over use." The term may mean the metal implements each co-tenant was obliged to have for the work of fencing. As a term for the ploughshare and coulter together, it is still a living word in the south of Ireland.

JUDGMENTS OF CO-TENANCY.

trespass, according to the nature of the trespass, if trespass has taken place therefrom. And the implements which they shall have in making their shares of the co-tenancy *work*, or of the fence, are a spade for a trench, a bar for a stone wall, a hatchet for a strong fence, *and* a billhook for a 'felma'-hedge. And each of them shall give his victuals[1] into the hand of the other at night, that he may remember to come in the morning to do his share of the co-tenancy *work;* and the victuals of the person that will not come may be safely used, and if the victuals of any of them be used, he shall pay fine for over-use. And the true making of the trench is three feet in its breadth at the top, and two feet in the middle, and one foot at the bottom, and three feet in its depth, and three feet the thickness of the mound which is placed over it, at the bottom, and two feet in the middle, and one foot at the top, and three feet the height of the mound, so that the depth of that trench and the height of the wall over it make[a] six feet.

[a] Ir. *Are.*

Now *as to* the stone fence, *there are* three feet in its thickness at the bottom, and two feet in the middle, and a foot at the top, and six feet in its height.

But *as to* the close-fence, it is thus it should be made: the top of the one tree *shall be* on the trunk of the other tree, and so as that the smallest suckling pig[b] could not pass through it for its closeness, nor the ox *pass* over it for its height.

[b] Ir. *The little pig.*

The naked fence should be thus *made: the length of* a foot to the articulation (*or separation*) of the big toe is to be between every two stakes, and six feet in its height, or twelve hands, if it be measured by hands; and three bands of interwoven twigs[2] upon it, a band on it at the bottom, another in the middle, and another at the top, and a *certain* space between every two bands; and a hand is the length of the pole (*the interweaving*) from that out,[3] and a blackthorn crest upon it at the top; and every stake should be flattened at top by three blows struck on its head, after being first thrust *by the hand on the ground* as *well as* you can.

The places where these fences should be *are thus*, i.e. a trench or a stone wall in the plain, and the naked fence in the half-plain, and the close fence in the wood. And the height of them all is equal.

[2] *Bands of interwoven twigs.*—'Dunchor,' literally, 'butt-setting,' means a band of oziers interwoven between the standards or stakes.

[3] For 'amuin' here which seems to make no sense, Dr. O'Donovan conjectured 'anunn,' and translated accordingly. Professor O'Curry translated "o ṫeas amuin," "above the wickerwork." The MS. Rawlinson, 487, fol. 64 a, col. 2, has "amuiṅ."

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Smachta tairgilli each raithi itir ramrad ocus etarscarad ocus caomtacht; acht ni cuma coinmtiagait ocus etarscarat, randtar dono in bliadain i nde fri smachta, ar ni cormail smachta cacha raithe, annsom a smachta gaimsuachta ocus ellrach Grit, ar irruithe beo bethu toitha. Treidib miach mitir cach nethemain, miach i nathlumpairse, letmiach fri monai ar airlim; besa de dartaig ar fesr, ar ir fesr cach lige cach tarrairde, airlim acht na deilfet nach tartairde, acht tartaide and iar naide.

Smachta tairgilli each raithi, .i. in ni smachtaigther tar cenn na ngell toimthech each raithe. Itir ramrad, .i. in eric. Etarscarad .i. ini etarscarus fir in geimre don ellrach. Caomtacht, .i. ini bis inachoimdechtde. Ni cuma coinmtiagait ocus etarscarat, .i. acht ni cutruma ini bis a coimdecht in geimrid don ellrach ocus ini etarscarus fir de. Randtar dono in bliadain, .i. usranntar dono in bliadain ar dó re hic smachta. Ar ni cormail smachta cacha raithe, .i. uair noca cormuil ini smachtaigther and in each raithe. Annsom a smachta gaimsuachta, .i. is do na nethib is innsa no is annsa ann ini smachtaigther a fuact in geimre. Ellrach Grit, .i in uair bis crit ar na himnibh is in ellrach. Ar irruithe beo bethu .i. ar is uaisle ini do beir beatha do na buaib isin geimre na

[1] *Every quarter.*—Upon this Dr. O'Donovan observes:—"A literal translation of this passage could not be understood by an English reader." The following is submitted as the closest that could be considered intelligible:—

"Relieving pledges are ordained for every quarter of the year, both in summer and in the parts separated from or added to it, but these parts are not equal, for the year is divided in two regulations for the 'smacht'-regulations of every quarter are not alike. The 'smacht'-regulations of the winter, and the cold *portion* of spring are more difficult, for *living* food is more noble than fruit.

"Three sacks are estimated *as the fine* for trespassing on all rich land, half a sack for pastured land, and half a sack for a mountain.

"Two 'dairt'-heifers are adjudged for lying down *satiated after grazing*, for every

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Additional pledges for 'smacht'-fines *are payable* every quarter[1] of a year, both in summer and *in* the parts *of autumn and spring*, subtracted from or added[a] *to winter;* but the parts added and subtracted are not equal, *for* the year is divided into two parts[2] for *regulating* 'smacht'-fines, for the 'smacht'-fines of each quarter are not alike, *because* it is difficult *to regulate* the 'smacht'-fines of the winter season, and of the spring cold,[3] for saved provisions are more precious than growing grass. Three sacks are estimated *for damage committed by trespass* in cornland, a sack in pastured land, half a sack in a mountain field; two 'dairt'-heifers for 'feis'-trespass, for every lying down is *called* 'feis'-trespass when detected; every detection is 'airlim'-trespass if they (*the cattle*) have not lain down, but detection therein after a night.

[a] Ir. *Separation and accompaniment.*

Additional pledges for 'smacht'-fines every quarter, i.e. the thing which is ordained for the relieving pledges every quarter of a year. In summer, i.e. the 'eric'-fine. Subtracted, i.e. the part of the spring which is detached from winter. Added to, i.e. that part of it which accompanies it. But the parts added and separated are not equal, i.e. but the part of spring which is added to the winter, and the part which is subtracted from it are not equal. For the year is divided, i.e. the year is divided into two parts for the *regulation of* payment of 'smacht'-fines. For the 'smacht'-fines of every quarter are not alike, i.e. for the thing ordained by law in each quarter is not alike. It is difficult *to regulate* the 'smacht'-fines of the winter season, i.e. the thing commanded to be given as fines during the cold of the winter is among the difficult things *of law.* Spring-cold,[b] i.e. when the cattle are shivering in the spring. For saved provisions are more precious, i.e. for more noble is the thing which gives food to the cows

[b] Ir. *Shivering.*

lying down when detected is a 'feis'-trespass. It is an 'airlim'-trespass if they did not lie down. No fine for lying-down lies for any detection, except their being caught in the morning."

[2] *The year is divided into two parts.*—According to C. 23, the year was divided into two unequal parts. The 'Samfucht,' or warm season, comprises five months, viz., the last month of spring, the three months of summer, and the first month of autumn; and the 'Gamfucht' comprised seven months, viz., the two last months of autumn, the three months of winter, and the two first months of spring.

[3] *Spring cold.*—That is, during February and March, which were considered a part of the winter. See p. 89, *infra.*

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iní do beir toru dóib isin tramrad. Treidib miach mider cach nethemain, .i. treide do miachaib ir he ní meiremnaigther i feir ocus in airlim dígsin feoir etam. Miach i nathlumpaire, .i. féir aithlumpaire feoir etamuin tramrata. Leth miach fri monai, .i. i nairlim aithlumpaire mona fesmreta re dígsin mona framrata. Bera de dartaig ar feis, .i. brethemnaigther de dartaig da fresrall ar cethre miadaib, .i. i féir dígsin feoir etamuin fesmreta. Ar is feir cach lige cad tarrsaide, .i. eisic feisi forru o tarrsaigther ant iatt ina lige. Airlim acht na deilfet, .i. eisic airlime orra acht na fo laigit ann. Nad tartaide acht tartaide ant iar naide, .i. noda tarrsadtain eile a deisim eisic feisi orru ina nairlim, acht a tarrsadtain ant iar maidin.

Cethri ernaili comarda in comaidera a nictar lanfiad feisi, .i. feis lae, ocus feis aide, fuirre na haide, ocus airlim na haide, cona torrsadtain an airlim ant ar maidin. Cethre hernaile comarda an comaidera a nictar leth fiad feisi, .i. fuirre an laei, ocus airlim an laei, tairrse na haidi ocus airlim na haide, cona torrsadtain an airlim ann iar maidin. Leth fiach airlimi in laei a tairrsi an laei, no leth fiad tairrsi na haidi a tairrse an lae, ocus is i sin an aen hernaili cethraman.

Cethre meth a feis digona feoir etamain fesmreta tar lan ime, da miad ina nairlim, ocus miad ina tairrsi. Mar i athlompaire feoir etamain fesmreta, no digsin mona fesmreta, no caille fesmreta, no athbuailid fesmreta, no i ndigoin feoir etamain tramrata, da miad ina feis, ocus miach ina nairlim, ocus leth meth ina tairrsi. Már i athlumpoire mona fesmreta, no caille fesmreta, no athbuailid fesmreta, no athlompuire feoir etamain tramrata, no a ndigsin mona framrata no caille framrata, miad ina feis, leth meth ina fairlim, ceathraime meth ina tairrsi. Már i athlompuire mona framrata no caille framrata, no athbuailid framrata, leth meth ina feis, ocus cethruime meth ina forlim, ocus

[1] *Enclosed field.*—On the term "digsin," Dr. O'Donovan, quoting an old gloss, says, it meant grass which was not to be violated, i.e. a meadow.

in winter than the thing which gives produce to them in the summer. Three sacks are estimated *for trespass* in cornland, i.e. three sacks is the fine estimated for 'feis'-trespass and 'airlim'-trespass in an inclosed meadow. A sack in a pastured field, i.e. for lying in a pastured field of grass land in the summer. Half a sack in a mountain field, i.e. for leaping into a pastured field of winter mountain land with an inclosed field of summer mountain land. Two 'dairt'-heifers shall be given for 'feis'-trespass, i.e. two 'dairt'-heifers *of the value* of two 'screpalls' with four sacks are adjudged, i.e. for 'feis'-trespass in *a properly fenced* winter grass land. Every lying-down is *called* 'feis'-trespass, &c., i.e. 'eric'-fine for 'feis'-trespass is *charged* on them when they are caught there lying down. 'Airlim'-trespass if they have not lain down, i.e. 'eric'-fine for 'airlim'-trespass *is charged* on them if they have not lain down. Every detection, but detection therein after the night, i.e. it is not for any other detection I say that 'eric'-fine for 'feis'-trespass is *charged* on them for their 'airlim'-trespass, but for their being caught there in the morning.

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There are four equal cases in[a] the co-tenancy in which full fine for lying down trespass is paid, i.e. lying down by day, and lying down by night, 'ruire'-trespass by night, and 'airlim'-trespass by night, and their being detected in their 'airlim'-trespass there in the morning. There are four equal cases in the co-tenancy for which half fine for 'feis'-trespass is paid, i.e. 'ruire'-trespass by day, and 'airlim'-trespass by day, 'tairsce'-trespass by night, and 'airlim'-trespass by night, if they are detected in their 'airlim'-trespass there in the morning. Half the fine for the 'airlim'-trespass by day *is due* in the *case of* 'tairsce'-trespass by day, or half the fine for 'tairsce'-trespass by night in the *case of* 'tairsce'-trespass by day, and this is the only case of a fourth (*i.e. of fourth fine*).

[a] Ir. *of.*

Four sacks *are due* for 'feis'-trespass in a winter grass field over a full fence, two sacks for 'airlim'-trespass, and a sack for 'tairsce'-trespass. If *it be trespass* upon a pastured field of winter grass land, or upon an inclosed field of winter mountain land, or winter wood, or an old winter milking place, or into an inclosed field of summer grass land, two sacks *are due* for 'feis'-trespass, and a sack for 'airlim'-trespass, and half a sack for 'tairsce'-trespass. If *it be trespass* upon a pastured field of winter mountain, or winter wood, or an old winter milking place, or a pastured field of summer grass land, or into an inclosed field[1] of summer mountain or summer wood, a sack *is due* for 'feis'-trespass, half a sack for 'airlim'-trespass, *and* a quarter of a sack for 'tairsce'-trespass. If *it be trespass* upon a pastured field of summer mountain or summer wood, or summer old milking-place, half a sack is due for 'feis'-trespass, and a quarter of a sack for 'airlim'-trespass, and the

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oċtmad meich ina tairrce. Oċtmad an oċtmaid ar cach naen anmand nangbuid, uair angbaid cad mil a comaiċer. Tairrci aen anmunn an aṫlumpairne mona ramrata, cid bé da roired, in reired rand lete aen meich. Ir e airet ata in rid rin co ruici trí reċt nanmanda do aen reilb a noul anund tar bernadaib raine; ocus mad tar aen bernai do cuadar, rmaċt ar in cét anmuin, ocus aithgin feoil no arbair ar cad nanmann o da rin amach.

Da bai in riad duinecaiti cinnti tar lan ime, ocus damairc tar let ime; bo mad cin ime itir; a noigoin feoil geimrid ata rin. Mad i aṫlompuirne feoil eṫamain geimred, no a noigoin mona geimrid no cailli geimrid, no aṫbuailid geimrid, no a noigoin feoil eṫamain tramrata, bo and tar lan ime, ocus trí ceṫramna tar let ime; damairc mad cin ime itir.

Mad i aṫlompuirne mona no cailli, no aṫbuailid geimreta, no aṫlumpuirne feoil eṫamain ramrata, no a noigoin mona no cailli, no aṫbuaili ramrata, damuirc and tar lan ime, ocus a teora ceṫramme tar let ime, colpad re rcripall mad cin ime itir.

Mara aṫlompairne mona no cailli, no aṫbuaili ramrata, colpad .ui. rcripall ann tar lan ime, ocus a teora ceṫramna tar let ime, dairt cetri rcripall mad gin ime itir.

Bo in riach duinecaiti contabairtach dar l ime, ocus colpach dair no ruire tar let ime. Tar lan ime at ·it na meich, ocus a let tar let ime, ocus nocon ruil ni mad cin ime itir. Tar lan ime ata in riach duine caiti ocus a teora ceṫramme tar let ime, ocus let, mad gin ime itir.

Canar i ngabur teora ceṫramme in reich duinecaiti tar let

[1] *Restitution.*—That is, the owner must make good the grass or corn destroyed by the animal.

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eighth of a sack for 'tairsce'-trespass. The eighth of the eighth *is the fine* upon every trespassing animal, for every beast is a trespasser in a co-tenancy. *For* the 'tairsce'-trespass of one animal upon a pastured field of summer mountain pasture, whatever *animal* commits it, a sixth part of the half of one sack *is due*. This extends[a] to three times seven animals of one herd in their going over different gaps; and if it be over one gap they went, there is 'smacht'-fine upon the first animal, and compensation for grass or corn upon every animal from that out.

[a] Ir. *The length to which this run is, till it reaches, &c.*

Two cows *is* the fine for definite man-trespass over a full fence, and a cow and a 'samhaisc'-heifer *if* across a half fence; a cow *is the fine* if there be no fence at all. This is *for trespass* in a preserved field of winter-grass. If it be *trespass* upon a pastured field of winter-grass land, or upon a preserved field of winter mountain or winter wood, or old winter milking-place, or upon a preserved field of summer grass-land, a cow *is the fine* for it *if* across a full fence, and three-fourths *of the value of a cow* across a half fence; a 'samhaisc'-heifer, if there be no fence whatever.

If it be a pastured field of winter mountain or wood, or an old milking-place, or a pastured field of summer grass-land, or a preserved field of summer mountain or wood, or an old milking-place, a 'samhaisc'-heifer *is the fine* for *trespass on* it over a full fence, and three quarters *of a cow* over a half fence, a 'colpach'-heifer worth six 'screpalls,' if there be no fence at all.

If it (*the trespass*) be *upon* a pastured field of summer mountain or wood, or an old milking-place, a 'colpach'-heifer of *the value of* six 'screpalls' *is the fine* for it *if* across a full fence, and three quarters *of a 'colpach'-heifer* across a half fence, a 'dairt'-heifer *of the value* of four 'screpalls,' if there be no fence at all.

A cow is the fine for doubtful man-trespass[3] *if* across a full fence, and a 'colpach'-heifer *is the fine* upon him or her (*the trespassing beast*) across a half fence. *For trespass committed* across a full fence 'the sacks'[2] are *paid*, and the half thereof (*i.e. of the sack*), across a half-fence, and there is nothing *to be paid as fine* if there be no fence at all.

Whence is it (*i.e. the rule or precedent,*) derived that it is three-quarters of the fine for man-trespass *that is paid for the trespass*

[2] *The sacks.* The term is here technically used. It means four sacks of oats and barley. See *infra*, p. 119.

[3] *Man-trespass.*—That is, trespass committed by cattle with the connivance of, or caused by the owner, or some person in charge of them.

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ime, ocus co na fuil acht leth na miach? Is ag gabus, leth in feich duinecaiti cin ime itis, ocus in leth eile de as fgath lan ime; mara leth ime fuil and, cethramthe as fcath leth ime; tabuis in tochtmad fin a fuilled in lethe fuil cin ime, co na teora cethraime in feich duinecaiti tar leth ime.

Nochon fagabus nach ni do na miadaib cin ime, cois no deisidi in tan ata leth ime and, cémad leth na fiach do beth as a fgáth.

Nochan fuil techtis fuisiu na aisidme na taisfgi, na méraigti na laigoigti oinnili a leith re duinecaithi; ocus ata techtis digoin ocus achompaise, athaim ocus anadaim, ocus ata techtis ime ocus can ime. Ata a ndechtis uili re miadaib.

Cid fo dera in tan is meich dlegar isin fogail co na fuil ni cin ime itis; ocus in tan is fiad duinecaiti imusso, co fuil a leth fide cin ime itis? Is é in fád fodera, in coimét do orgaig dligi as na hindili ata ac fis na nindili orro, ocus indligtech dis an feraind gan ime aigi; ocus cois cin co beth ni do na miadaib do in tan na biad ime aigi. Nochon fuil a coimet dligtech imusso, ac fis na indili orra in tan ata fiach duinecaiti uad, ocus cois ce no beth a leth uad cin ime itis, cid indligtech dis an feraind gan ime do beth aige, uair consandat bait baegal etusiu.

Techtis digoin ocus achompaise, ocus aithim ocus anaithini, ocus ime ocus can ime a leth re fiad duinecaiti; ocus nocon fuil techtis feisi na aisidme, na fuisiu, na taisfgi a leth re fiach duinecaiti; ocus ata an techtis uili a leth re miachaib.

Is ann atait na meich orro in inbaid no fagaib duine iat i fleib no a ndiraind, ocus no fagaib buachaill cotnad re cois;

[1] *One-eighth.*—This is wrong, it should be 'one-fourth.'

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committed by going across a half hedge, and that it is only half 'the sacks?' It is derived from this, *that it is* half the fine for man-trespass *is due* when there is no fence at all, and the other half of it for *trespass over* full fence; if it be a half fence that is there, there is a fourth *of* '*the sacks*' for half fence; carry that one-eighth,[1] and add it to[a] the half which is for *the case of* no fence at all, and it makes three-fourths of the fine for man-trespass across a half fence.

[a] Ir. *In addition to.*

No portion of 'the sacks' is obtained without the fence, it is proper for this reason, that when there is a half fence, it should be half the fines that are *due* for it.

There is no difference of 'ruiridh'-trespass, or 'airlim'-trespass, or 'tairsgi'-trespass, or increase or decrease of cattle with respect to man-trespass; but there is a difference of meadow and pastured land, of profitable land and unprofitable, and there is a difference of fence and non-fence. All these differences are *observed* with respect to 'the sacks.'

What is the reason, when it is 'sacks' that are due for the trespass, that there is nothing *due* where there is no fence at all; *but* when there is fine for man-trespass, that the half thereof is *due* where there is no fence whatever? The reason is, the herding which the law has ordered for the cattle is *provided* by the owner of the cattle for them, and it is unlawful for the owner of the land not to have a fence; and it is right that he should have no portion of 'the sacks' when he has not a fence. The owner of the cattle has not *provided* the lawful herding for them when he pays fines for man-trespass, and it is *in such case* right that he should pay the one-half when there is no fence at all, even though it is unlawful for the owner of the land not to have a fence, for "fools divide the neglect[2] between them."

There is a difference between preserved grass-land and pastured land, and between profitable and unprofitable land, and between fence and non-fence,[3] with respect to fines for man-trespass; and there is no difference between 'feis'-trespass and 'airlim'-trespass, or 'ruiridh'-trespass, or 'tairsce'-trespass, with respect to fines for man-trespasses; and there is a difference between them all with respect to sacks.

Where they are fined 'the sacks' is where a person has left them (*the cattle*) in a mountain or a wood, and left a sensible adult

[2] *Vid.* vol. 3, p. 305. "Every Judge is punishable for his neglect."

[3] *Non-fence.*—The MS. here has 'cα' with a stroke over the 'α,' such as usually is employed to mark 'c.' The meaning requires that the word should be read as "cαn."

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no in coimét a deir dligi orro: fratar ar na mucaib; cocoll im na cerci; broga im na gabraib; uricoll fo na gamnaib; aedaire ag na cairib; buachaill ag na buaib.

Ir and ata in fiad duinecaiti cindtes, in inbaid fo fagaib iat a farrad an ġuirt feoir no arbair, ocus cindti leir cona fachdair inn. Ir ann ata in fiad duine caiti connḟabartach, in uair ir connḟabairt leir in fachdair no na fachdair ind.

Ma táit tall iat ad fir a tairri a tabairt fo trí amach, ir lan fiach duinecaiti; ma tait ad firi toirrid a tabairt fa dó, ir da trian an feich duinecaiti; ma frobatar tall ad firi toirre a tabairt aenfecht, ir trian in feich duinecaiti.

A fail ata dianaigh[1]lig neimed, ní hed an cena, uingi dairgset a taitmech and, ocus ga ar trí fecht nanmanda fo cethair do aen treilb atá sin co na ndul anund saine fecht tar saine berna; no ar trí fecht nanmannaib fo cetair do saine felba co na ndul anunn aen fecht tar saine berna; ocus damad tar aen bernain, ní biad act smacht ar in cét mil, ocus aithgin feoir no arbair uatha uili.

A fail ata dun rig, ler martrad[2] ní aidlig, lintar dairgset cach derc don aitti, dó uir cach derc fo taitmidi ann .i. a fonda ocus a falad, ocus uir min a comaicinta tar a heiri; ocus ir e airet ata in rith, co ruici fecht nanmanda do aen treilb.

Tairgille smacta tairced cuicti iar fogail uadaib

[1] *When it is a king's 'dun'-fort, &c.*—The text is obscure here, and seems defective in the original. The paragraph with some variation is given in O'D., 1674, as a commentary on the clause, "Rooting the earth in distinguished places."

[2] *A 'lis martradh'-fort.*—Probably a churchyard; 'martyres' appear to have meant 'relics'. Vid. O'D., 1674.

as herdsman with them, or the care-taking which the law requires[a] over them; a yoke for the pigs; a hood for the hens; ties of leather for the goats; a spancel for the yearling calves; a shepherd with the sheep; a herdsman with the cows.

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[a] Ir. *Says.*

The case where the fine for definite man-trespass is *due* is when he (*the trespasser*) left them (*the cattle*) near the field of grass or corn, and he is certain that they would go into it. The fine for doubtful man-trespass is *due* when he is doubtful whether they would go or would not go into it.

If they are within *the field* as long as that they might be driven[b] out thrice, it (*the penalty*) is full fine for man-trespass; if they are within so long as that they might be driven out twice, it is two-thirds of the fine for man-trespass; if they were *within the field* so long as that they might be driven out once, it is one-third of the fine for man-trespass.

[b] Ir. *Brought.*

When it is *a case of* the violation of a 'nemed'-person's *church or sanctuary*, it (*the fine*) is not the same, *but* an ounce of silver *is the fine* for their rooting there, and this is charged upon $3 \times 7 \times 4$ (84) animals of the one herd (*cattle belonging to one man*) after they have gone over *the fence* different times by different gaps; or upon three times seven animals *multiplied* by four (84) of different herds (*possessions*) when they have gone over once by different gaps; and if it be by the one gap, the 'smacht'-fine shall be only upon the first beast, and compensation for grass or corn from *the owners of* them all.

When it is a king's 'dun'-fort,[1] *or* a 'lis martradh'-fort[2] that is trespassed upon, let every hole made in the place be filled with 'eric'-sod,[3] *so as to be tantamount* with the clay of each hole that was made therein, viz., let it be pressed and stamped with the heel, and *let* fine clay of the same nature *be placed* there afterwards, and the extent to which it runs, is as far as seven animals of the same possession (*herd*).

The additional 'smacht'-fines for instigation are to be paid in five days after damage, for trespass without

[3] '*Eric*'-*sod*.—The Irish word which Dr. O'Donovan has thus translated is 'airgeḋ,' the usual word for 'silver,' even in the spoken language of the present day. In O'D., 1674, the reading is 'argat,' which appears to have the same meaning, both terms being Celtic forms of the Latin 'argentum'.

JUDGMENTS OF CO-TENANCY.

a caithe cen naidm naesaib. Gaimsigain mbruigrechta da trian a fochraice is e a fmacht.

Tairgille fmachta .i. anad trethi ocus didim cuicthi fos in fmacht, .i. no na fmachta frithi tathrad na gella toisidhnecha do torachtain ar cuicthi; no in ni fmachtaigther re heisic in cinaig fisi tathad na gella toisidhnecha do torachtain uaid ar cuicthi, in tan is aithuil a cinaig fein do cin a fuil.

.i. in uair is aithuil a cinaid fein do he, is anad trethi fos in fmacht, ocus didim cuicthi. In tan is aithuil cinaig ninbleogain imurro, is anad cuicthi fos in fmacht ocus didim trethi fos in fmacht. Ocus is ann is aithuil a cin[uid] fein do cin a fuil, in tan ata dil in cinaig is in rob fein; ocus is ann is aithuil cinaig ninbleogain do, cach uair na fuil.

Cen naidm naesaib, .i. cin naidm narcaire fir do rein nuasesa re comall in comaithcesa. Gaimsigain, .i. osgnim in brosga fir na coir disgetaide isin gemre. Da trian na descreicde, fmachta uil ina fesc ocus ina airlim, isfed fuil ina fesc nama.

Fmachta cacha raithe, ni cuma dono fmacht rampachta ocus gaimpachta; ni cuma dono cid cach mis diruidiu. Airberar dono fecht misa dib fri rampacht, ocus a cuic fri gaimpacht; an mi deidinach do ernuch, ocus tri misi rampraid, ocus tri misa an fogmuis fri rampacht; cuic misa imurro, fri gampacht, tri misa in gaimrid, ocus in da mi tairecha do ernach fri gaimpacht. Is truma fmachta geimrid oldaibi fmachta rampraid, ar isfuithe beo beatha na mbo oldas a

[1] *Farm-Laws.*—The word "mbruigrechta" has been written over the words "da trian" in the MS. by a much later hand than that of the original scribe.

[2] '*Smacht*'-*fine.*—See p. 31 (O'D., 2171), and compare with O'D., 402. "Question —How are land trespasses calculated?—From the rents, i.e. from the full rent given for the land itself, the profitable or unprofitable grass-land which is injured is estimated.

Two-thirds of the rent is the fine, i.e. two-thirds of the rent which is charged for a 'tir cumhaile' of the best land, for three-quarters is the fine for 'feis'-trespass in a meadow of winter grass land over a full fence, i.e. three 'screpalls' upon it for the three-quarters, and two 'screpalls' for 'feis'-trespass in winter, and one for 'feis'-trespass in the summer, i.e. the one-third of the three 'screpalls.' (H. 3, 17, col. 306.)

A passage similar to this very obscure one occurs in C. 25.—treating of the tres-

giving further legal security. *For* winter trespass in the farm-laws[1] two-thirds of the rent is the 'smacht'-fine[2].

The additional 'smacht'-fines, i.e. *there is* a stay of three days, and a delay in pound of five days for *the payment of* the 'smacht'-fine, i.e. or the 'smacht'-fines with which are given the additional pledges are to be brought in five days; or the thing which is commanded *by law* as '*eric*'-fine for the crime for which the additional pledges are given, is to be brought by him in five days, when the crime of his beast is as his own crime.

That is, when it is to him like his own crime, there is a *stay* of three days for *the payment of* the 'smacht'-fine, and a delay in pound of five days. When however, it is as the crime of a kinsman,[3] there is a stay of five days, and a delay in pound of five days for *the payment of* the 'smacht'-fine. And the case in which his beast's crime is to him like his own crime is, when the beast itself is value *sufficient* to pay for the damage;[a] and it is[4] as the crime of his kinsman, whenever it is not *of that value.*

[a] Ir. *When the value of the crime is in the beast itself.*

Without *giving further* legal security, .i. without the guaranty of a contract-binder, according to new knowledge for observing the *laws of* co-tenancy. Winter trespass, i.e. trespass upon the farm with the proper regulations in the winter. Two-thirds of the fair rent, the 'smacht'-fines which are *paid* for 'feis'-trespass and 'airlim'-trespass, is that which is *due* for 'feis'-trespass alone.

There are *different* 'smacht'-fines every quarter *of a year, but* the 'smacht'-fine in the hot season is not the same as that of the cold season; even every month of these *seasons* is not alike. Seven months of them are included[b] in the hot season, and five in the cold season; the last month of spring, and the three months of summer, and the three months of autumn, are called[c] the hot season; but the five months of the cold season are, the three months of winter, and the two first months of spring. The 'smacht'-fines of winter are heavier than the 'smacht'-fines of summer, for

[b] Ir. *Are said for.*

[c] Ir. *For.*

passes committed by swine. It runs as follows:—"What was in the old judgments? —Every pit that was rooted *by swine* to be filled respectively with corn, others *say* with butter, for they deemed it lawful to make good the damage done to the earth by its own produce. But this was afterwards changed to compensation for the thing injured."

[3] *A kinsman.*—'Inbleoghan' means a man's son, grandson, relative, or any person for whose crimes he is responsible.

[4] *It is.*—Literally "and where it is the same as the crime of the kinsman is whenever it is not."

Judgments of Co-Tenancy.

ngeart, ar it geinithesr fesr i ramrad, ni tha imurro ní a ngeimre.

Smacta cacha raithe, .i. ini fmachtaigther in gach raithe. Ni cuma dono fmacht, .i. nocha cutruma ini fmachtaigther i fogail do denam a teasr in tramraid ocus a fuacht in geimrid. Ni cuma dono cid cach inis disuidiu, .i. nocha cutruma tramaigid cach mís do na hibadha hisin, .i. mí teasra in tramraid ocus mí fuachta in geimre. It truma fmachta geimrid, .i. is truma ini fmachtaigther isin fogail do niat na hinnile isin geimre olchaite na neiche fmachtaigther isin fogail do niat na hinnile isin tramraid. Ar is ruithe beo beatha nambo olchar a ngeart .i. is uaisle imi do beis beatha dona buaib isin geimrid inar ini do beis lacht doib isin tramraig. Ar it geinithesr fesr i ramraid .i. is he foin fáth .i. adageinid fesr isin tramruid. Ni tha imurro ní a ngeimre .i. nocha ned a rata lium in fesr do far is in geimrig.

Arberar fmachta ramraid; miach cach airlime ar fecht nanmandaib fri etham ndiguin; let meich ma fri athbrondad; let meich fri moin frindis; letmiach cach cuigaib o dam co dartaig fri feis. It da miach imurro, fri geamruacht.

Arberar fmachta ramraid, .i. raidter no airneidter ini fmachtaigther is in fogail do niat na hinnile isin tramraid. Miach cach airlime, .i. miach is e ni airneidithesr ar fecht nanmandaib daon feilb co na nsul anunn aon fecht tar aon bernad i nairlim diguin feois echtuin tramraid. Let meich ma fri athbrondad, .i. mad fri brondad gu hairt, .i. airlim athlumruire feois echtuin tramraid. Let meich fri moin frindis, .i. i feis athlumruire mona ramrata, no caille ramrata. Letmiach cach cuigaib o dam co dartaig, .i. ar fecht na[n]mundaib a feis diguin feois echtuin geimreta, ocus fechtmad let meich do cuid gach anmundaig na tus ar aird and. It da miach imurro fri geamruacht, .i. i féis athlumruire feois echtuin geimre, no i nairlim diguin feois echtuin geimreta.

Is cumal fmacht cach mil i comaicer, ocus i tocal nathgabala, amail isbeis isin Finnsruth Fithil; co ngeil ingen fri fiacail, ocus comdire each naera i fogeltad, congelat da dartaid fech

[1] *Food.*—The word 'beta,' means also life.

[2] *Finnsruth Fithil-law.*—A tract on the manner of passing judgments.

that which supports the cows *in winter* is more precious than their produce, for grass is produced in summer, but none at all in winter.

There are 'smacht'-fines every quarter, i.e. the thing which is commanded *to be paid* as 'smacht'-fine in every quarter of a year. The 'smacht'-fine is not the same, i.e. the thing which is ordained *to be paid* as 'smacht'-fine for trespass committed in the heat of the summer and in the cold of the winter is not equal. Even every month of these is not alike, i.e. it is not alike that each of these months is regulated, i.e. a month of summer heat and a month of winter cold. The 'smacht'-fines of winter are heavier, i.e. the thing which is commanded *to be paid* as 'smacht'-fine, for the trespass which the cattle commit in the winter is heavier than the thing ordered *to be paid* for trespass which the cattle commit in the summer. For that which supports the cows, &c., i.e. more valuable is the thing which gives food[1] to the cows in the winter than the thing which gives them milk in the summer. For grass is produced in summer, i.e. this is the reason, i.e. grass is produced in the summer. But none at all in winter, i.e. it is not that I say that grass grows in the winter.

Let the summer 'smacht'-fines be stated; a sack *is charged* for every 'airlim'-trespass upon seven animals into a profitable meadow; half a sack if into after-grass; half a sack if into a mountain; half a sack for the 'feis'-trespass of every sort of cow from an ox *down* to a 'dartaid'-heifer. There are, however, two sacks in the cold season.

Let the summer 'smacht'-fines be stated, i.e. the thing which is commanded as 'smacht'-fine for trespass which the cattle commit in the summer is to be told or related. A sack for every 'airlim'-trespass, i.e. a sack is the fine which is mentioned as *imposed* upon seven animals of one herd after going over by leaping once across one gap into a meadow of summer grass-land. Half a sack if into after-grass, i.e. if to trespass quickly, i.e. by leaping into a pastured field of summer grass-land. Half a sack if into a mountain, i.e. for 'feis'-trespass in a pastured field of summer mountain or summer wood. Half a sack, &c., from an ox to a 'dartaid'-heifer, i.e. upon seven animals for 'feis'-trespass in a meadow of winter grass-land, and the seventh of a half sack is the portion *of the fine* for each animal, which he did not tender then. There are, however, two sacks in the cold season, i.e. for 'feis'-trespass in a pastured field of winter grass-land, or for 'airlim'-trespass into a meadow of winter grass-land.

A 'cumhal' is the 'smacht'-fine for every beast in a co-tenancy, and in taking forcible distress, as is said in the 'Finnsruth Fithil'-law[2]—A nail rates with a tooth, and equal 'dire'-fine is paid for *cattle of* every age for feeding, for two 'dartaid'-heifers eat beyond (*more*

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rodam. 1 tir dibad ata in comecus sin, ocus 1 comaiccas, no 1 comecus ata sund.

Ag so crenar tir co cend mbliadna; tarcisi ngemfuachta, no ag ber siu da thian a fochreca tarcisi, ocus a tir lais in fear ogstar and.

O'D. 403.

Ag so crenar tir co cend mbliadna, .i. ag dedcennaigis in fearann ar fochruic co cend mbliadna, .i. in tramuirc do berar i fochruic, .i. fochruic feoir ar tir thi cumal. Tarcisi ngeimfuachta, .i. tarcisi na fogla do nithes a fuacht an geimrid, a let feichride, .i. let an feich duinechaibi connabartaig an tramuirc isin tar lan ime, [ocus a leth mar gan imme], .i. an aclompuine feoir echeamain géimreda, no a noiguin mona geimrid, no caille geimre, no athbuaile geimrid. No ag ber siu da thian a fochreca tarcisi, .i. ag ber siu da thian na focreca, .i. na tamuirce fuil ar tir thi cumal, .i. in colpach ocht sgrepall fuil tarcisi dire da cumal ina focreic; no ad ber siu da thian na tamuirce atá isin focreic, isred ata isin fogail do nithes sis na rerandaib cétna i fuacht an geimrid, .i. ar teora cethraime na tamuirce andsidi hi, act aen screpall nama na tuga ar aird and; no dono cena, cin co fuil acht aer colpaige ocht sgreapall indti, is dimarcraid legaigti no bisid ata uire ni sis na siu teora cethraime na tamuirce hi. Ocus a tir lais in fear ogstar and, .i. a rerand lais in fer do nithes and do ogain, .i. ias re na focreca, in tan is ar focreic tucad he; no a rerand ac in fer do nithes and i fogail, .i. ias nic erca a fogla sis.

Tait aislimenda imdichet smachta; cach aislim sua coin no duine; no aislim naibil no omna, no aislim neicne cisi.

[1] *Joint-stocking.*—That is putting an equal stock on the land.

[2] *Rent.*—'Focraic' is here used to denote the award or price, hire or compensation paid, or contracted to be given, for the use of the land for one year.

[3] *Against whom trespass is committed.*—The following seems to be the meaning of this very obscure text:—"A calf is the rent payable for land taken until the end of the year; in the case of a trespass committed from the commencement of the cold season on to the end of the year, a calf is the fine payable, or a calf which is worth two-thirds of the value of such a calf as should be paid for the rent, (which would at that time be a 'samhaisc'-heifer); and the land upon such payment becomes the property of the man against whom the trespass is committed, or of the man who pays the fine."

than) the largest ox. In a 'dibadh'-land this joint-stocking[1] is *made*, and in a co-tenancy, or in joint-stocking it is here.

A calf *is the rent* which is paid for land *taken* till the end of the year; *in the case of trespass committed* after *the commencement of* the cold season *to the end of the year, a calf is the fine*, or a calf which is worth two-thirds of the rent afterwards; and the land *remains* with the man against whom trespass is committed in the case.

A calf, &c., which is paid for the land till the end of the year, i.e. a calf (*the price of a calf*) pays for the land *which is let* for hire (*rent*) to the end of the year, i.e. the 'samhaisc'-heifer which is given as rent,[2] i.e. as the hire for the grass of a land of (*worth*) three 'cumhals.' After the cold season, i.e. after the trespass which is committed in the cold of the winter, half the fine for this, i.e. that 'samhaisc'-heifer is half the fine for doubtful man-trespass over a full fence, and the half thereof if there be[a] no fence, i.e. into a pastured field of winter grass-land, or into a meadow of winter mountain, or of winter wood, or a winter old milking-place. Or a calf which is worth two-thirds of the rent afterwards, i.e. a calf which is worth two-thirds of the rent, i.e. of the 'samhaisc'-heifer which is *paid* for a land of three 'cumhals,' i.e. the 'colpach'-heifer *of the value* of eight 'screpalls' which is *to be paid* for a land of two 'cumhals' for its rent; or, a calf which is worth two-thirds of the 'samhaisc'-heifer which is *paid* for the rent, it is it that is *paid* for the trespass which is committed on the same lands in the cold of the winter, i.e. *it is given* for three-quarters of *the value of* the 'samhaisc'-heifer in this case, except one 'screpall' only which was not brought forward here; or indeed, *according to others*, although it (*the calf*) has but the age of a 'colpach'-heifer of eight 'screpalls' *value*, it is from the excess of the improvement or increase that is upon it that it is worth three-quarters of the 'samhaisc'-heifer. And the land *remains* with the man against whom trespass is committed,[3] i.e. the land *remains* with the man who is trespassed upon in this case, i.e. after the term of the rent, when it is for rent that it (*the land*) was given; or, *according to others*, the land belongs to the man who has committed the trespass, i.e. after his paying the 'eric'-fine of his trespass.

[a] Ir. *Without.*

There are *three* 'airlim'-trespasses for which no 'smacht'-fines are paid: every 'airlim'-trespass before a dog or a man; or an 'airlim'-trespass *in consequence* of heat or fear, or an 'airlim'-trespass owing to[b] any kind of violence.

[b] Ir. *Of*

In O'D. 403, the following condition is added:—

"If it be winter grass that is trespassed upon, two-thirds of the rent shall be the fine, i.e. of the rent which is paid for a 'Tir-cumhaile' of the best land *which is hired* for three-quarters of a year. There are three heifers *as rent* upon it for the three quarters; and two heifers, i.e. the two-thirds of the three heifers are the fine for 'feis'-trespass in a meadow of summer grass over a full hedge."

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Tait airlimenda, .i. atait leimenna do niatair ar in fer no ar in arbar ocus eimoitnitreig iat can fmacht orra and. Cach airlim fria coin, .i. ag teiche fria coin. No duine, .i. ag teche fria ndainib. Airlim naibil, .i. in tan bir aibell orra re teagh ngrene. No omna .i. fria creich, no re coibdin. No airlim neicne cirri, .i. cibed eigen, .i. torunn no tene gaignen.

Smacht dia cuicti iar fogail cona focal cona cruar ocus a lomdata. Treinib fmachta cach coir, trian fon di coirce aire.

Ma fer for aill arrenar and a taeb no a nairchind, ma fer foraid, no fer famla, icar a caiche a reir na comaichid.

Smacht dia cuicti, .i. ini fmachtaigther uad i forba cuicti iar ndenam na fogla, .i. na meic, .i. anad threir for in fmacht, ocus didim cuicti. Cona focal, .i. na miach, .i. narub fearb iatt. Cona cruar, .i. narub tair. Lomdata, .i. gran lomget lomconda fema fleic, .i. gurub data he ocus he lom, .i. cin colg. Treinib fmachta cach coir, .i, treimugad ar in fmacht do rein coir. Trian fon di coirce aire, .i. trian a mbid ar in coirci ocus ar ind eornaig, ir red ata ar in coirce aonur, ocus do thiun logha

Ma fer for aill, .i. ma fer do berar irin fer eile ar fon aithgina, .i. ma fer ethaim fo brondad and, diablad do feor anethaim tar a eri munab fuil etham aigi. Ac taeb, .i. fada. No a nairchind, .i. gairid. Ma fer foraid, .i. na caille. No fer famla, .i. na mona, .i. in trlethe. Ac rein na comaichid, .i. aithgin an cinaig fin amuil ir fiar fir na comaichib, .i. arndmer do ura na coimaichid air, muna fagtar fer a commaith ind-ar fon aithgena, ocus neimbed feoir a comaicinta aigi fodera.

Cair—can mider caiche tire? Ar a fochracaib; ma

[1] *Fear.*—Dr. O'Donovan remarks upon this—"The gloss is here transposed, and should be restored to its proper order thus:—

"Fear, i.e. of thunder or lightning. Or an 'airlim'-trespass owing to any kind of violence, i.e. before a foray, or before plunderers, or any violence whatsoever."

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There are *three* 'airlim'-trespasses, i.e. there are *three* leaps which are made upon the grass or upon the corn, and they are freed from paying 'smacht'-fine for them. Every 'airlim'-trespass before a dog, i.e. in running off before a hound. Or a man, i.e. in flying before men. An 'airlim'-trespass *in consequence* of heat, i.e. when they (*the cattle*), are running from the heat of the sun. Or fear,[1] i.e. before a plundering party,[a] or a band *of depredators*. Or an 'airlim'-trespass owing to any kind of violence, i.e. whatever violence it may be, i.e. thunder or lightning.

[a] Ir. *Prey.*

'Smacht'-fine *is paid* in five days after trespass with testing of the grain as to hardness and bareness. 'Smacht'-fines are three-fold by right, the third of which is *set aside* for oats.

If it be one *kind of* grass that is paid for another at the side or at the extremity *of the field*, whether it be hidden grass or coarse grass, let the fines be paid according to *the arbitration of* the co-tenants.

'Smacht'-fine *is paid* in five days, i.e. the thing which is commanded *by law* to be paid by him[b] *is to be rendered* at the expiration of five days after the commission of the trespass, i.e. 'the sacks,' i.e. there is a stay[2] of three days upon (*for the payment of*) the 'smacht'-fine, and a delay in pound of five days. With testing, i.e. of 'the sacks,' i.e. that they are not bitter (*foul or mawkish*). As to hardness, i.e. that they be not moist. Bareness, i.e. the grain which they eat bare, that it be not dirty or chaffy, i.e. that it be well coloured and bare, i.e. without chaff. 'Smacht'-fines are threefold by right, i.e. there is a threefold division of the 'smacht'-fine by right. The third of which is *set aside* for oats, i.e. the third of what is for oats and for barley, is for the oats only, and its value is one-third.[c]

[b] Ir. *From him.*

[c] Ir. *For a third of its value.*

If it be one *kind of* grass *that is paid* for another, i.e. if it be grass that is given for another grass as compensation, i.e. if it be rich grass that has been spoiled in this case, let him (*the trespasser*) give twice the quantity of poor grass in return for it, if he has not rich grass. At the side, i.e. long. Or at the extremity, i.e. short. If it be hidden grass, i.e. of the wood. Or coarse grass, i.e. of the mountain, i.e. of the moor. According to the co-tenants, i.e. the compensation for that trespass *is* according to the opinion of the neighbours, i.e. the arbitration of the neighbours *decides* upon it, unless grass equally good is obtained for it as compensation, and his not having grass of the same nature is the reason *of its being decided by arbitration.*

Question—How are land trespasses estimated?—From its rents; if it be winter grass that is injured,

[2] *A stay*, i.e. the period during which cattle distrained remain upon security in the hands of the owner; but the 'stay' comes first, then 'delay in pound' follows it, and then three days of grace called "Tṙeiṗi imceimniġće," in the Irish Laws: *vide* Senchus Mor, vol. I, p. 79, *et seq.*

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gaimser sno hosgtar and, da trian a sochraca ise a caiche ; mar samser, is trian.

Cair—can mitesr caiche tise? .i. comaircim canar a meisemnaigtesr na cinta do nithesr sisin sesand. Ara sochracaib, .i. ar in sesann sein so sinntar in ses etham no anetham millter and. Ma gaimser, .i. mad he ser in geimrid oisgter and. Da trian a sochraca ise a caiche, .i. da trian na deigsreici ata ina seis, ocus ina nairlim issed ata ina airlim nama; uair ceithi meic ata na seis, ocus da miach na nairlim. Da trian socreca ata ar tir cumaile do netham is sesin co cenn tri raith issed uil i seis disuin seoin ethemain geimreta tar lan ime, .i. tri sesibuill sis na tri raith, .i. da sesepull i seis ngeimre, ocus sesebull i seis an samraid, ocus is e sin trian na tri sesepoll. Mar samser, .i. ser in tramraid, is trian a buil na seis, ocus na airlim ata na airlim nama, .i. da miach ina seis, ocus miach i nairlim.

Caithe muc. Ma gleidir ser caichach amuil caithe
O'D., 1226. cethra olcena. Ma sochlaid tire [tir] sor aill co
O'D., 1226. ro dlomtar a deasurc· [i.] co rucar da ech a corait
O'D., 1226. ocus leicar and, co [na] toigden ni a siacla ar oc a gleid. Is and is deasurc.

Leth caichach a tairsce, o caichach ma caichaig naithe. Ar ata i ndligi na seine buachaill oc cach cethra
O'D., 1226. sui de [sceo aidche]; is de ata cond bo buachaill i mbansoillsi ; a mbeit i mbuaile so iadu an oidche ; ina muca i seis i soil a naidche; ina bai bit a mbodaingen ; eich i cuib siech teachta no a nindi ; caise a lair.

[1] *Fair rent.*—'Deigsreic' is glossed 'céndach' in Rawlinson, 487 (O'D. 2115.)

[2] '*Tir-cumhaile.*' A piece of land measuring 12 'forrachs' in length, and 6 in breadth, *Vide* C. 252, and O'D. 1462. *Vide* also vol. 3, p. 335.

two-thirds of its rent is *the fine for* the trespass; if summer grass, it (*the fine*) is one-third. JUDGMENTS OF CO-TENANCY.

Question—How are land trespasses regulated? i.e. I ask whence are estimated the trespasses that are committed upon the land. From its rents, i.e. on the land itself it is known whether it is profitable or unprofitable grass that is injured on the occasion. If it be winter grass, i.e. if it be the grass of the winter that is injured therein. Two-thirds of its rent is *the fine for* the trespass, i.e. two-thirds of the fair rent[1] *or price* that is *paid* for its 'feis'-trespass, and 'airlim'-trespass is what is *paid* for its 'airlim'-trespass only; for it is four sacks that are *paid* for its 'feis'-trespass and two sacks for its 'airlim'-trespass. Two-thirds of the rent which is *paid* for a 'Tir-cumhaile'[2] of the best land to the end of three-quarters *of a year* is what is *due* for 'feis'-trespass in a meadow of winter grass-land over a full fence, i.e. three 'screpalls' for the three-quarters, i.e. two 'screpalls' for 'feis'-trespass in winter and one 'screpall' for 'feis'-trespass in summer, and this is the third of the three 'screpalls.' If it be summer grass, i.e. the grass of the summer, it is one-third of what is *due* for its 'feis'-trespass and for its 'airlim'-trespass that is *due* for its 'airlim'-trespass only, i.e. two sacks for its 'feis'-trespass, and one sack for its 'airlim'-trespass.

The trespasses of swine. If they eat the grass, they are trespassers like other *grazing* cattle in general. If they root up the land, other land *shall be given* until the proof of the restoration *of the land* is completed;[a] that is, until two horses in yoke are brought and left there, *and it is seen* that no part of the earth stick to their teeth while grazing on it. Thus is it tested.[3]

[a] Ir. *Until its testing is seen.*

Half fine is *due* for 'tairsce'-trespass *by day* and full fine if it be trespass *committed* by night. For it is *a maxim* in the law of the Feini that every kind of cattle should have a herdsman by day and night; from which is derived *the saying* "the cow's sense *carrier* is her herdsman in the bright light;" that they should be in an enclosure at the fall of night; that the swine should be in their stye by night; that the cows should be in a cow-fastness; horses in their proper fetters or in a stable; sheep in their fold.

[3] *Thus it is tested.*—The original seems to be defective here.

JUDGMENTS OF CO-TENANCY.

Caithe muc, .i. cinta na muc. Amuil caiche cethra olcena, .i. amuil cinta na cethra olcena uile cena um fiach duinecaiti orru. Ma fochlaid tire, .i. mad tocailt in talmun do ne. For aill, .i. tir eile inn ar fon aithgina. Co ro dlomtar, .i. cu randtar no gu nairneidithes deirbcinne flaithi in ferann ro tocbad ann. Da each
O'D., 1226. a corait [.i. coraegat, .i. na heich ind, irin ferand iardain]. Ocus leicar and, .i. irin ferand na heich. Cona toigden ni a fiacla ar oca gleid, .i. cona degdena ni don talmain a fiacla arr asa foigeilt. Is and is deardurc, .i. is and is deardbcinde flaithi dó [.i. don dear].

O'D., 1226. [A derorc; Scuirtir da ech ann a corad iraim cona toigdean fod lar in nglerd fin, is ann dlomtair a derorc. Mad gleid ro gelid na muca, is amail ceathra a cathaig. Cia ro bai i fein breitaib gach clar ro claidead do línad do arbaim alaill do imbim, ar ba head ba tecta leo frecor ceille in talmun dia todiad fadesin; do deochaid tra iarum for aithgin neich bronnair ann. Duinecaide tra, imeadan tar tir do céile .i. aiad ocus aitredad follscud ocus fodla ocus todla ocus an ocus airgriu.

Miach ar muic moir, leid meich cacha ceirt, ceithri maim cach bainb; no dono led meic ar cach muic móir, cethramdu meich cacha ceirt, ocus da maim cach bainn. Co ruici ceithri fecht nanmanda atá in rith ro; rith forir na muca mora cein biti ann. Is airi is lugu forir na banbu ina forir na aige, uair is lugu a nutmaill ina ceathrib.

Leath cathach a tairrci .i. letfiad airlime in lae i tairrgi in lae; lan fiad airlime lae no aidce i tairrce naidche; cutruma fer ocus fuired na haidche. Cutruma airlim ocus fuired in lae tar lan ime cach nae; fer na aidche ocus a fuiread cona tarrachtain iar naidche ina laige, lán fiad feri inotib; airlim aidche ocus a tairrge, let fiad feri inotib; fuiread lae ocus airlim lae it manda; lethfiad airlime i tairrge lae.

[1] *An equivalent.*—'Aithgin' properly means a restoration of the same thing to the original owner, but it is frequently, as in this instance, applied to "the making good," or giving an equivalent for any loss, damage, or injury.

[2] *Two horses in yoke.*—The greater part of the remainder of this tract is taken from the MS. E. 3 5, in the library of Trinity College, Dublin. Rawlinson, 487, wants the glosses on the second part of the preceding text. They are taken from E. 3 5.

[3] *Carrying.*—For 'imeadan' of the text, the meaning of which is doubtful, C. 32, reads 'imreadain,' which means 'drawing,' 'pulling,' &c.

The trespasses of swine, i.e. the crimes of the pigs. Like the trespasses of cattle in general, i.e. like the trespasses of every other description of cattle when the fine for man-trespass is *charged* upon them. If they root up the land, i.e. if rooting of the land be what they do. Other land, i.e. when other land *is given* for it by way of an equivalent[1] *of the land which they rooted up.* Until the proof of the restoration, &c., is completed, i.e. until the certain reclamation of the land which they rooted up is announced. Two horses in yoke,[2] i.e. they are yoked [?] i.e. the horses on it, on the land afterwards. And are left there, i.e., the horses on the land. That no part stick to their teeth, i.e. so that no part of the earth stick in their teeth in grazing on it. Thus it is tested, i.e. it is then it certainly is determined that it is restored to its healthy state, i e. the land.

Its testing: let two horses be unharnessed *and placed* there yoked together *to graze,* when in grazing they do not pull up a sod, it is then the test is seen. If the swine have eaten the grass by grazing, their trespass is like that of other cattle. Although in the old judgments *it is ordered* that every furrow which they should root should be filled respectively with corn and butter, for they deemed it just that the land should receive *for the injury done it* an equivalent in its own produce; yet it afterwards was exchanged for restoration of the thing which was damaged therein. Man-trespasses are, carrying[3] (*loads*) over your neighbour's land, i.e., 'aradh'-trespass, 'aitrebadh'-trespass, 'follscudh'-trespass, 'fothla'-trespass, 'tothla'-trespass; 'an'-trespass, and 'airgsiu'-trespass.[4]

A sack *is the fine* upon a large pig, half a sack upon every slip (*young pig*), four handfuls[5] for a farrow pig; or, *according to others,* half a sack upon every large pig, a quarter of a sack upon each slip, and two handfuls upon every farrow pig.[6] This addition extends to four times seven animals; but it extends to the entire number[a] of the large pigs. The reason that it is less on the farrow pigs than upon the large pigs is, because their nimbleness is less than *that of* cattle.

[a] Ir. *While they are there.*

Half fine is for 'tairsce'-trespass, i.e. half the fine of the 'airlim'-trespass by day for 'tairsce'-trespass by day; the full fine of 'airlim'-trespass by day or night for 'tairsce'-trespass by night; the 'feis'-trespass and 'ruirindh'-trespass by night are equal. The 'airlim'-trespass and 'ruirindh'-trespass by day over a full fence of any person are equal; for the 'feis'-trespass by night and the 'ruirindh'-trespass *when the cattle are* found after the night lying, there is full fine for 'feis'-trespass due for them; for 'airlim'-trespass by night and 'tairsce'-trespass there is half the fine for 'feis'-trespass; 'ruirindh'-trespass by day and 'airlim'-trespass by day are equal; half the fine for 'airlim'-trespass *is due* for 'tairsce'-trespass by day.

[4] '*Airgsiu*'-*trespass.*—This remark about man-trespasses appears to be quite out of place here. It is not easy to determine the different sorts of trespass mentioned.

[5] *Handfuls.*—'Mam' is as much as can be taken up between the two palms of the hands held together.

[6] *Farrow pig.*—That is, a young sucking pig.

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Dochathach ma cathach aidhe .i. ogriach airlime in lae tairgse na haidhche. Ar ata a ndligedh na feine .i. ar ata a ndligedh in fenechair. Fri de .i. irin lo. Sceo aidhe .i. uirre bodein.

.i. Comingairi tra: cia cruthraidhe a hurlainn ceathra ocus fealb? .i. dia ba déc for ala, ocus fecht ngamna ocus fecht muca ocus fecht cairig. Ni tiagad oirc na huain a comingairi co lunaghadh. Ni ro briathar la cach in ala ar coin ocus ceachair ocus ceathrar, ocus adgenithar uad dia ceille; adrodmad a comingairi fria fiadnaib amuil do coigead for nadm ann ocus fiadha, acht mad ar conaib allta nama. Ronagar a comingairi, ni téid cin ceathra na ceachra fairm iarum, acht do airrfena in mairt do fiadnaib.

Cesc.—Cia lin raeirtair do comingairi? Nin: Fer tire nama, ar dligidhidhe la cacha ceathra do ingairi do; cia bét dona bó no allau fair, no cairiu, no dono gamain no allau, ocus ni tormaig lá; cét fir baid de, ni didaidh la.

Comingairi dono, no airim for meid fealbha caich di dir meid airime .i. bo co colpach for inadh daim; colpaid o meid dairidar ir for inad bo tiagaid; ci arbeirid airaile [daim] for ined ndaim, bo for ined bo, ag for ined aige, ar gealaid dia boin feach frodam. Ni ciuraid commae in ferdam frir an airire, nir dia ceathra fadefin fora a linra an airim dligfidetar de; ar a da géd for ined cairech, ocus dia cuira for inadh dartha, di dairt for ined colpaige, dia colpach for ined bo, bo co colpach for inadh ndaiñ. Ro-tarb, fuarduimha, ocus damconchaid, ni tiagad a comraind,

Cid fo dera fon? Nin. In tarb cetamus, ir cuma dairi fride a ceathra fadefin, ocus ceathra cach aín bir oca i mbuaile. Dam concaid dona, ir cuma imdidhride a ceathra ocus ceathra a

[1] *Common pasturage.*—This commentary is not in H. 3, 17, nor in Rawlinson, 487.

[2] *No engagement is given by one to the other.* There is no contract between the parties ("commoners") as to ordinary accidents; they are in the same position as if

Full fine if the trespass has been committed by night, i.e. the full fine for 'airlim'-trespass by day for 'tairsce'-trespass by night. For it is a maxim in the law of the Feini, i.e. for it is in the law of the Feinechus. By day, i.e. in the day. And night, i.e. in *the night* itself.

Common pasturage[1]: what is its nature as to the green of cattle and flocks? i.e. twelve cows in a herd, and seven yearling calves, and seven pigs and seven sheep. Farrow pigs or lambs do not come into the common pasturage until Lammas-day. No engagement is given by one to the other[2] *with respect to protecting the herd* from dogs, quagmires, or cattle gorings, or from what they may do to one another; their common pasturage was arranged before witnesses, as if upon securities and guarantees, excepting *protection* against wild dogs only. *As to* what is legally placed in the common pasturage, no trespass of cattle or quagmires is considered with respect to it afterwards, but the carcass *of the animal which is killed* shall be shown to witnesses.

Question.—How many are freed from *the responsibilities of* the common pasturage? Answer—The owner of the land only, for he is entitled to a day's herding for every head of cattle *on his land;* for although there should be a cow or its value (*equivalent*) due from him, or a sheep or a yearling calf or its equivalent, and it does not add a day; though these should be separated from him, it does not lessen a day.

Now, *in* a common pasturage there is a calculation made of the size of each person's cattle[a] to adjust his responsibility, i.e. a cow with a heifer in lieu of an ox; heifers from the size at which they are bulled pass in the place of cows; though others say it is an ox in place of an ox, a cow for a cow, a calf in place of a calf, for two cows graze more than[b] the great ox. The equivalent of the bull is not put in this enumeration, there is not of his own *species of* cattle any even number that would fill up the number which would be required for him; for two geese are in lieu of a sheep, two sheep in lieu of a 'dairt'-heifer, two 'dairt'-heifers in lieu of a 'colpach'-heifer, two 'colpach'-heifers in lieu of a cow, one cow with a 'colpach'-heifer in lieu of an ox. The great bull, the 'suasdamha'-ox, and the 'damh-conchaidh'-ox do not come into the enumeration.

[a] Ir. *Possessio i.*

[b] Ir. *Beyond.*

What is the reason of this? Answer—The bull, in the first place, bulls equally his own cattle, and the cattle of all which are with him in the enclosure. The 'damh-conchaidh'-ox equally protects his own cattle and the cattle of his neighbours.

they had come to an agreement reciprocally to this effect, excepting always the case of wild dogs (the property of one of the parties).

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comaiceach. Is aire sin ni tiagaid corlaigthe a naisrim, arus cuma sonic cach a leas. Dligid cach buachaill a biathad.

Muca dona, ni tiagad isin comairme acht muca air, inge tis srobaige co meas. Comra dona, slan cach comra cach cumaid cach comingaire, acht inorad no inorat no algum.

Cia sorai ceathra cairc sri raile acht fairgide no guinide, no cona a surbaid aicearus cach a chin fuchtis uigaib? Mad ad so sois anaill, orgar dono an ag no noirg, ocus rannaid in da mart netorro i nde, fobith ber srus is rogart no commart an ag dia laile; acht ni etar a rogart a nert netarro. Ho, ma fearr lair, focerdat crann im an ag mbeo dus ci da lina anerien do alaile ar. Ite a mbreatha annso tra, muna fearfad guinide forr in nag riam; dia fearfad, beread in fer ber ae mart a aige, ocus arrean a ceile ag so laill do; ocus mad fed so sois an ag, so cerdcad crann forro a hurlann fealb dus cia dib do tot bidba do tabairt, ocus dombeir iarum in ti dia tuit, ocus aneirined a ceile do urland fealb ocus ceathra. Bit mart an aige atarrtu, ocus aithuil fodailit an eitce is aithuid rannaid mart an aige atarro.

Ar de ata cond bo a buachaill .i. is de is cotnach do na buaib a mbuachaill. A mbuaiaid .i. na mbo .i. a ramrad. Mad muca .i. i fail i faeat na muca isin naidi.

.i. Muca imurro; muc orro cada fesi, ocus banb cach airlime, ocus ag a noire feoil; ar dligid in fogealtad sin a imcomed co leir. A fesi a foil so ceithri hoidaib in adaig, ocus muicaide ocaib sri de. Is de is beis isin Coir féine bic; Dia mbeo muca moaidesi, arus cru cumaid ar fesi fedad beil mídbad bru uaid minraind naderanar ninnair im cuca claire cach aen comarba coir coirtner minnigter.

Mad ba, bid i mbodaingean .i. bid a ndaingen na mbo, i mbuaidid no i mbodigib.

[1] *Commons.*—The word 'comra' here translated 'commons,' may mean a 'litter of pigs.' If so, the whole passage would signify, "As to a litter of pigs, every

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For this reason 'coslaithe'-cattle do not come into the enumeration, for all stand in need of them equally. Every herdsman is required to feed them.

Pigs, too, do not come into the enumeration of land stock unless they be old pigs, excepting on wood land with masts. *As to* commons,[1] every commons is free to every grazier of the common pasturage, except for plunder, or trespass, or knowledge of crime.

Why are the cattle of all placed together, except gorers and fierce cattle, or that it is from the wounding that everyone shall claim the fine for his attack from him?—If it be a calf that has killed another, let the other that has killed it be slaughtered, and let them (*the owners*) divide the flesh of both between them into two *equal* parts, because of the killing by the former; or, let the flesh of the killed calf be divided between them; but this cannot be enforced between them. Or, if it be preferred, let them cast lots for the live calf to know which of the two should pay the other for him. These are their judgments here, unless the calf had never been known before as a gorer; *but* if he had been known *as such*, let the man whose property he is take the flesh of the calf, and his neighbour shall give him another calf; and if he slaughters the calf, lots shall be cast upon them on the green of the cattle to know to which of them the guilty party by right should be given; and the man to whom it has fallen afterwards obtains him, and his neighbour gives him away in the green of the flocks and cattle. The flesh of the *killed* calf shall be between them, and as they divide the 'eric'-fine, so they divide the flesh of the calf between them.

From which is derived *the* saying "the cow's sense is her herdsman," i.e. it is from this it is *said* that their herdsman is the sense-carrier to the cows. In an enclosure, i.e. of the cows, i.e. in the summer. If pigs, i.e. into a stye the swine shall go in the night.

That is, as to pigs: a pig *is the fine* upon them for every 'feis'-trespass, and a farrow pig for every 'airlim'-trespass, and a calf as 'dire'-fine for grass; for it is right that pasture should be wholly guarded. They should lie in a stye at four roads by night, and they should have a swineherd by day. From whence it is said in the *law called* 'Coir Feine Bec;'[2] "If there be a swineherd, it (*the fine*) is increased, for their stye should be at the meeting of roads that lead into the middle of farms which are partitioned into small divisions, each 'coarb's' division being marked and divided by furrows."

If cows, let them be in a cow fastness, i.e. let them be in the fastness *legally erected for the protection* of the cows, in an inclosure or in cow-houses.

litter of pigs is free *to graze* on every commons, every common pasturage," &c.

[2] *Coir Feine Bec.*—A tract not known now. The translation of the extract is only conjectural.

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.i. Cia ro badar fmacta mara ann, ceithi la imbed na hindille, ocus caemna in tire aurroi, na hedu irin cét fer, a tanaire ir dala fer, letdilre neich adrorgearda ir in treas fer, odilre neich adrorgardar irin ceathramad fer; arus arach ocus athrab iar sin. Ir amne tra arranndair fmacta cetamus, acht na herlimeanna dorlia dilre.

Cadiad fairde? Nin—Erlim neisne ria coin no duine; erlim ria torainn no aibeall, no erlim acht adroiridair a ndiaid riarsu ro drengad taris. Ité erlimeanna im ad ícead fmacta.

Co ducod tra for tarta ocus tartaige la caemna in luic ocus meid in re, conad é fmacht forra ducaid a reimead. Ciarberad alaile ir ógerlim acht do coisead da nag dec ind. Let meich cach ulgaib o dum co tartaid frisi fer, acht ir fer cach ligde cach tarrsaige. Or mad beg in tir ro hortar ann imbi ní bi fearr miach no cairead i torad bir ann, mider ani ber siu, ocus do beir diabul fochraice tar a eire.

Cerc—Cid ar a mider son? Nín:—Tir so crean boin co ceann mbliadna, ida miach dec dono fochreanad son; ocht meich ar geamradacht, ocus a cetair ar samradacht. Mad gemradacht og so ortar ann, arreanidar a hocht ind, ocus ag a ndirse foir. Mad samhucht so hortor ann, arrenidear cethri meich imn, ocus ag a ndirse a feoir.

Arreanidar tra na fmacta dia threisi iar fogail o taidcharsair, muna erlighter tra i coraib bel; aen fmacht ar cach ceathra ad fogma for tír. Ire in fmacht fil ar cach ceathra dib, miach cacha feisi, ocus let meich cach erlíme ar cach fecht mbuaib.

Eich i cuibreach techta no na ninde .i. na heich ina cuimrech dligthech, in cenn frisi bac ina nechairlib.

.i. Eich, a fmachta amail cach ceathra fogealtad frisi na hurgabala dianairi fein. Ar do gaib na heodo ocus cuimnitiur, ocus ata-

[1] *The trespasser.* 'Cairead,' may possibly mean "a trespasser" or "criminal," but, from the context, it is hard to see how it can bear such a sense here.

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That is, though there were great 'smacht'-fines therein, four *sacks* with the increase of the cattle, and the protection of the country; these cases *occurred* for the first 'feis'-trespass, a second in the *case of a* second 'feis'-trespass, forfeiture of half what arrived for the third 'feis'-trespass, entire forfeiture of what arrived for the fourth 'feis'-trespass; for it is tying and dwelling after that. Thus they used to divide the 'smacht'-fines at first, except *in case of* the 'airlim'-trespasses, which do not deserve forfeiture.

What are these? Answer.—Forced leaping before a dog or a man; leaping on account of thunder or sultriness, or a leaping, but so as they are pursued before they could get over. Such are the leapings for which 'smacht'-fines do not lie.

Until it amounts to a 'dairt'-heifer and a yearling with *the fine imposed by* the protection of the place and length of the time, the 'smacht'-fine to which it amounts is to be proved. Though others say that full leaping-*trespass* is committed, if twelve calves have gone into it (*the field*). A half sack *is the fine* for every animal from the ox to the 'dartaidh'-heifer for 'feis'-trespass, but every lying down in which it (*the animal*) is caught is 'feis.' If the *extent of* land which had been damaged on the occasion be so small that the produce which is there is not better (*more valuable*) than a sack or the trespasser,[1] let the value of it be estimated, and he shall obtain double the hire (*rent*) afterwards.

Question.—From what is that estimated? Answer.—Land which a cow pays for to the end of a year, it is twelve sacks that would purchase this; eight sacks for the cold season, and four sacks for the hot season. If the damage has been committed in full winter, eight sacks shall be paid for it, and a calf as 'dire'-fine for grass. If it be in the summer that the damage has been committed, four sacks shall be paid for it, and a calf as 'dire'-fine for its grass.

They shall pay the 'smacht'-fines in three days after the trespass has been committed, unless indeed by verbal engagements it is *otherwise* arranged; it is the same 'smacht'-fine that shall be paid for every *kind of* cattle that is caught upon the land. The 'smacht'-fine that is upon every cattle of them is a sack for every 'feis'-trespass, and a half sack for every 'airlim'-trespass upon every seven cows

[1] Horses in their lawful fetters or in their stables, i.e. the horses in their lawful fetters, the head to the staple in their stables.

That is, *as for* horses, the 'smacht' fines are like those of any other cattle which consume fodder after their being taken *in trespass.* For the horses are taken and detained (*i.e. impounded*), and notice

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baind do fir bede heic, dian fearsar; muna fearsar, atabaind ac dun tigerna ber nesom, ocus oc dun breithemain na tuaiti, ocus oc cesrada gobann, ocus oc primcill na tuaithe; ocus ata baind samlaig so na cricha olcenna ocus comnitus cot,

* * * son dia cuic la déc, no sichit aidche, no mís, os dian do ti fer bithe héich re naimsir a nithma. Ocus cia fogealtad fil doib? Nin:—Miad cacha mís do buaib ocus eachaib, miad ocus let meith do dam, muna cuibnigter; dia cuibnigter imurro, is miad cach lai co naidi. Teit in tairsaige so comainnsice frir a foarc, sannaid a fogealtad atarroi i nde; muna ti imurro, is og a fogealtad don fir cuibnigter. Na so meada a farc forsin fer cuibnigter, ocus dia ti a ceile co niarnair tecta, ocus co fiadnaise indsic, ocus co naechaib, foruairliceas in coimdead, beraidsithe a ceathra, ocus arrean fogealtad.

Ciasa fogealtad son? .i. miad cacha mis, as us fogealtad ceathra fil doib aruige, ni fogealtad athgabala.

Mad on mí sin in nonn, ni haclaig cia fognaigter innaib .i. a ndamaib ocus eachaib ocus ba blechta do bleogan; act ni teit fogealtad forro in ré fognad.

Smacta fodla ocus todla.

Fodla din, dam do thig ocus fuirmead ann a tir a ceile, im comirc doib ciasa hairm in so fuirmid. So fuirmim i tir ino fir fed. Ma forcongrasom a tabairt as nach raemasom, ited arrcanad caiche a neach iarum. No arailc dono, adcimm na srianna leo, ocus ni imcomircba doib, is tusa arrean in cathaig sin, mad ainbrir dono daim in tir in so fuirmead a neodo.

Todhla dono; arbeirrium fri daim amra fesin in tire; is

[1] *Are detained.*—There is an erasure here in the M.S.

[2] *The keeping.*—That is, of the cattle out at grass under the care of proper herdsmen.

[3] '*Todhla*'-*trespass.*—'Fothla' usually means 'eluding,' 'evading,' &c., and 'Tothla,' 'demand,' 'claim,' 'request.'

is given to the man whose horses they are, if he be known; if he is not known, notice is given at the 'dun'-fort of the nearest lord, and at the 'dun'-fort of the Brehon of the territory, and at the forge of the smith, and at the principal church of the territory; and notice is likewise given throughout the *neighbouring* territories, and they (*the horses*) are detained[1] till the expiration of fifteen days or twenty nights, or a month, if the man whose horses they are does not arrive before that period *which is that* of their delay in pound. And what expense of feeding is *due* for them? Answer.—A sack every month for cows and horses, a sack and half a sack for an ox, unless he has been impounded; but if he has been impounded, it is a sack for a day and night. The keeping[2] comes under the same estimation as the impounding; they shall divide the expenses of feeding in two between them; if he (*the owner of the cattle*) does not come, the expenses of feeding are entire to the person who has impounded. If the man who has impounded has failed to give the notice, and if his neighbour should come with the lawful following, and with worthy witnesses, and with oaths, the lord shall relieve him, he shall obtain his cattle, and he shall pay the expenses of feeding.

What are these expenses of feeding? A sack every month, for it is feeding for cattle that is *due* for them in this instance, not expense of feeding for distress.

If it be after this month nothing is demanded if service is obtained from them, i.e., from oxen, and horses, and milch cows which are milked; but no expense of feeding is charged[a] upon them while they render service, i.e., *do work or give milk.*

[a] Ir. *Goes.*

'Smacht'-fines for 'fothla'-trespass and 'tothla'-trespass.[3]

'Fothla'-trespass is *committed when* a party of people come and unharness their horses in the land of a neighbour, asking what place it is in which they have unharnessed. Ye have unharnessed in the lands of this man. If he has ordered them to betake themselves from thence, and that they do not comply, they shall pay for the trespasses of their horses afterwards *committed.* Or—it is otherwise, indeed, *if* he sees the bridles with them, and he does not question them, it is thou who shalt pay for that trespass if the party are ignorant of what land they have unharnessed their horses in.

As to 'tothla'-trespass, now; this is said of an unknown party who have unyoked *their horses* in the land; and thou hast given

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amne in coirce doib fcor ann, act nad neibne dod belaib nama; ar tura arrean in cadaig sin iarum amuil bid a ceathra fadesin. Fo roirid imbed fmacta faidci beiti a threib.

C. 28.

Cairig ina liar, .i. na cairig do bith ina cru.

[.i. Cairig imorro, it fmacta airlime do fuidib, ar ni fil fera doib, .i. damna feisidhe cacha airlime fri lom, damna ceithle de digain.]

Acta dono oicc conandda cindta fri thet, ocus ag conandda cindta fri het; oicc feata bir a lir no a faithche, lingear eirlim a ngoit faidche fa di, fa thri, fa ceathair, an aen laithe; ni ling imurro, in thet act aen eirlim; conandad chindta iarum i nde.

Ag dono, conanna cinaid fri hed, forrigid gealear tar geilt nindrich, no tar ime nindric.

Acta dono oicc .i. acta dono oic urrannar cinaid rir in thet rir in naidin i fuilit fecht nanmanna Fri thet .i. im cutruma orro. Ocus ag .i. ag urrannar cinaid rir in thet rir in naidin i fuilit fecht nanmanna for im catruma. Oirecc feata .i. in feta frobi ina uic.

.i. in toiric feata brirear ar dus ocus berear eolur fer in thet, cutruma fri da nanmanna do fmacht fair, ocus fri haen anmann daithgin. In fecht tanisde teid, cutruma fri ceithri hanmannaib fair do fmacht, ocus cutruma fri da anmanna daithgin. In threar feacht teit, cutruma fri thri hanmanna daithgin, ocus fri fecht nanmanna do fmacht fair. In ceathramte fecht teit, cutruma frir in thet uile fair do fmacht, ocus cutruma fri ceithri hanmanna daithgin, ocus ar e in thet berear cach feacht.

[1] *Sheep in their fold.*—The text here is from O'D., 1226 (E. 3. 5, p. 2, col. 1). The reading in O'D., 2172 (Rawlinson 487, fol. 65, p. 1, col. b), is "caire a liar;" and that in C. 28 (H. 3. 18, p. 12), is "cairig illiar;" the orthography varying as usual in the different MSS. in nearly every single word.

[2] *The litter.*—O'D., 2173, has here, "There is as large a fine upon the pet young pig, as upon seven animals, who goes *into the garden* the first time. . . There

them to understand that it is allowable to unyoke there, although thou hast not said so by word of mouth; it is thou who payest for that trespass afterwards as if it were thy own cattle *that had committed it.* It may reach the amount of 'smacht'-fine *payable* for trespass in a green adjoining a house.

Sheep in their fold,[1] i.e., the sheep to be in their fold.

The sheep have fines for 'airlim'-trespass imposed upon them, for there is no fine for 'feis'-trespass, i.e., the makings of a spindle (*of wool*) for every 'airlim'-trespass into bare *grass*, the makings of a ball into preserved grass.

There is a small pig that shares the fines with the herd, and a heifer which shares the fines with the herd; a pet young pig which is *kept* in an enclosure, or in a green, which makes 'airlim'-trespasses into the garden of the green twice, thrice, four times in one day, but the herd makes but one 'airlim'-trespass; they divide the liability afterwards between them into two *equal parts.*

The calf, too, pays equal fine with that of the herd *where he is* a trespasser that passes over the lawful pasture, or over the lawful fence.

There is a small pig, i.e. there is a young pig which shares the fine with the herd, with the flock in which there are seven animals. With a herd, i.e. the same upon them. And a calf, i.e., a calf which shares the crime with the flock or the herd in which there are seven animals, in equal parts. Pet young pig, i.e., the pet of the litter.[2]

That is, the pet young pig which first breaks *through the fence*, and shows the way to the herd, there is a 'smacht'-fine[2] upon him equal to that upon two animals, and compensation equal to that of one animal. The second time that he goes, there is a 'smacht'-fine upon him equal to that of four animals, and compensation equal to that of two animals. The third time that he goes, there is compensation upon him equal to that of three animals, and a 'smacht'-fine equal to that of seven animals. The fourth time that he goes, there is a 'smacht'-fine upon him equal to that upon the whole flock, and compensation equal to that upon four animals. And he leads the herd each time.

is on him only the same fine as on every other *animal* the first time, the same as on two, however, every time from that out."

[2] '*Smacht*'-*fine.*—That is a fine for violating the law; 'aithghin' is compensation for the actual trespass committed in injuring the corn, grass, &c.

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Ma do cuaid a aenur fa trí fia fiadnaib, ocus fo hícfead cach na, ocus fuc triar in cetrumad fecht, cutruma fri da nanmannaib fair do fmacht ocus fri haen anmann daithgin.

Ma do cuaid na haenar fo tri fia fiadnaib ocus nír hicad nach na, ocus fuc triar iar sin, cutruma frisin triar fair do fmacht, ocus cutruma fri ceithri hanmanna daithgin; no, ma do cuaid a aenur fa tri, ocus ni fo hicad, ocus fuc triar in tread fecht, cutruma fri se hanmanna fair do fmacht, ocus cutruma fri tri hanmanna daithgin.

Ma do cuaid co fa dí a aenur, ocus ní fo hicad in cet fecht, ocus fo hicad in fecht tanisde, cutruma fri da hanmanna fair do fmacht ocus fri haen anmann daithgin.

Ma do cuaid co fa di a aenur, ocus fo hicad in cet fecht, ocus ní fo hicad in fecht tanisde, cutruma fri fecht nanmannaib fair do fmacht, ocus cutruma fri da anmanna daithgin. Samlaid dono in tag.

Bir a bir, .i. tall. No a faithe, .i. amuich. Lingear eirlim, .i. lingid feic ar a leim air, arin fer no arin arbar. Fa di, .i. co fa do. Fa tri, .i. co fa tri. Fa ceathair, .i. co fa cethair. An aen laithe, .i. i naen lo teit inunn he in tan ir cutruma air ocus ailbin i fuilit fecht nanmanna. Ní ling imurro in triar, .i. noco lingenn in tailbin act aen leim air in tan ir cutruma orro. Conranad chindta iarum i nde, .i. ir cain urranait a cinta etarru iarum ar do, im cutruma airrium i noul anunn co fa cethair, ocus orrorum i noul inund aenfeachtˢ Ag dono, conranna cinaid, .i. ir e cuit in dono and, dona mucaib no airneid fomaind. Forrgid gealgar, .i. fer maith occi, ocus teit tar airbid do faigid feoil aili; no dono, geilt eirinnaic oici, ocus teit tar ime nindraic.

.i. Forrgid ar anim do o nachar ar a tag fer fein a ndag fer neich aile, cid ar ime cin co bed; no ar a droch fer fein a ndag fer neich aile o bur tar ime deach, no gid tar imme gin co bead dead ar a dag fer fein a ndag fer neich aile. Ní raithe forrgid fria cia no dicread ar a droch fer fein a ndag fer neich aile, munab tar imme dead.

[1] *Lawful.*—The word 'indruic' means 'worthy, pure, honest, perfect, complete lawful.'

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If he has gone alone thrice before witnesses, and he (*his trespass*) has been paid for each time, and that he has led the herd the fourth time, there is a 'smacht'-fine upon him equal to that of two animals, and compensation equal to that of one animal.

If he has gone alone thrice before witnesses and has not been paid for each time, and he has led the herd afterwards, there is a 'smacht'-fine upon him equal to that of the herd, and compensation equal to that upon four animals; or, *according to others*, if he has gone alone thrice, and has not been paid for, and has led the herd the third time, there is a 'smacht'-fine upon him equal to that of six animals, and compensation equal to that of three animals.

If he has gone twice alone, and has not been paid for the first time, and has been paid for the second time, there is a 'smacht'-fine upon him equal to that upon two animals, and compensation equal to that of one animal.

If he has gone twice alone, and has been paid for the first time, and he has not been paid for the second time, there is a 'smacht'-fine upon him equal to that of seven animals, and compensation equal to that of two animals. The calf indeed is similar *as to fines.*

Which is *kept* in an enclosure, i.e., within. Or in a green, i.e., outside, Makes 'airlim'-trespasses, i.e., he leaps a leap, a leap over upon the grass or upon the corn. Twice, i.e., two times. Thrice, i.e., three times. Four times, i.e., to four times. In one day, i.e., it is in the one day he goes over *the fence* when there is *a fine* upon him equal to that upon the herd in which there are seven animals. But the herd makes *but one 'airlim'-trespass*, i.e., the herd leaps but one over-leap when the fine on them is equal *to that on the pet young pig.* They divide the liability afterwards between them into two equal *parts*, i.e., they divide the fines afterwards fairly between them into two *equal parts*, an equal share on him for having gone over four times, and on them for going over once. The calf too pays equal fine, i.e. the force of the *particle* 'too' here is, *because* it was of the pigs we have treated before. A trespasser that passes *over the lawful pasture*, i.e., he had good grass himself, and he goes over a palisade fence into other grass; or, indeed, he has unlawful pasturage, and he goes over a lawful[1] fence.

A trespasser is the name *given* to him (*the calf*) when he goes from his own good grass into the good grass of another, whether over a hedge or not; or from his own bad grass into the good grass of another over a good fence, or whether he has gone over a fence or not, he has gone from his own good grass into the good grass of another. He should not be styled a trespasser though he should have passed from his own bad grass into the good grass of another unless he has passed over a fence.

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Cair—caide in ime indiuc?—Mad corra, corra tri liag, tri traigte a leithead, da doirnn deg dia hairde; mad clar, tri traigte a leithead ocus a doimne; traig a leithead tir iar nichtar, tri traige a leithead na maigne a cuirtar in mur, ocus tri traigte, a nairde in muir. Mad nocht aile, gebaid side fri dam, O'D. 2174. scuithe; ni diced scuithe ar a sluite, ocus [ni] dicet dam ar a hairde, ocus a daingne; da dorind dec dia hairde; tri buncair indi, bunchor for a hichtar, ocus airaile inde ara medon, ocus airaile fair iar nuachtur, co rugud cach cuaille iar nuachtur, ocus lamcur doib co nach urraema in talam; ocus tri beimeanna O'D. 2175. fair da [f]archa [a ceand. Ocus] traig co ruige deil nordan itir cach da cuailli; tri duirnd fot in O'D. 2175. chuaille uara anamain, ocus cir traigain fair. Dia mbe fair [in ime reo], is dichrogail ar ceatra.

O'D. 2175. Is amne cid in duirime itir [a] airde ocus [a] O'D. 2175. sluithe, ocus [a] indrucur.

Cair—caide in ime indiuc? .i. comaircim caiti aichne na hime sligthig itir. Mad corra, .i. dia cloich tir ocus cloch forrru anuar. A leithead, .i. iar nichtur. A leithead, .i. iar nuachtur. A doimne, .i. iar nairdi. Iar nichtar, .i. iar nichtur tir. A leithead na maigne, .i. in maid i cuirter in mur iar nichtar a muir. A nairde in muir, .i. fuarr. Gebaid side fri dam, scuithe, .i. gabaid side sirin ndam ocus sir in scuichi mbec. Ni diced scuithe, .i. noco teit in ni scuchar na scota trit ar sluthi. Dicet dam ar a hairde, .i. noco teit in dam tairir ar airde, .i. in da dornded. A daingne, .i. nocu cumscaigenn se ar a daingne. Da dorind dec, .i. na tri buncor. Co rugud cach cuaille, .i. corab cruind. Iar nuachtur, .i. narab cleth rama. Lamcur doib, .i. a cur doib

[1] *Bunchor-bands.*—Bands of oziers interwoven between the standards, or stakes.

[2] *A mallet.*—This was for the purpose of flattening the head or point of the stake to prevent it from hurting cattle. See O'D. 1556.

[3] *Interweaving wickerwork.*—For 'uara anamain,' of the text O'D. 2175 has 'uar senamain.'

[4] '*Bunchor*'*-bands.*—There is something wrong here in the MS.

Question—What is the lawful fence?—If it be a stone wall, a wall of three stones, *its dimensions are* three feet in[a] thickness, twelve hands in height; if a trench, three feet in width and in depth; its width one foot below at the bottom, three feet is the breadth at the place where the wall is placed, and three feet is[b] the height of the wall. If it be a naked fence, it shall be a defence against oxen, *and* small cattle; the small cattle could not pass through it from its closeness, and an ox could not pass over it from its height and its firmness; twelve hands *are* its height; three 'bunchor'-bands[1] in it, a 'bunchor'-band at the bottom, another in the middle, and another at the top; in such wise that each stake is rounded at the top, and they are pushed down by the hand in order that the ground may receive them, and they are each struck on the head with three blows of a mallet.[2] *The length of* a foot as far as the joint of the big toe *is to be* between every two of the stakes; three hands the length of each stake, over the interweaving *wicker-work*, and a blackthorn crest upon it. If it be thus made,[c] it is a defence against the trespasses of cattle.

The 'duirime'-fence is similarly *formed* as to height, and closeness, and lawfulness.

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[a] Ir. *Its.*

[b] Ir. *In.*

[c] Ir. *If this be upon the fence.*

Question—What is the lawful fence? i.e., I ask how is the lawful fence known. If a wall *of three stones*, i.e., two stones below and one stone over upon them. In thickness, i.e., at the bottom. In thickness, i.e., at the top. In depth, i.e., in height. At the bottom, i.e., below at the bottom. Is the breadth at the place *where the wall is placed*, i.e., of the place where the wall is placed at the bottom of the wall. The height of the wall, i.e., up. It shall be a defence against oxen, &c., i.e., it shall be a fence against the ox and the small cattle. The small cattle, &c., i.e., what crops the briars does not pass through it in consequence of its closeness. That an ox, &c., i.e., the ox does not go over it on account of its height, i.e., the twelve hands. Its firmness, i.e., it is not removed on account of its firmness. Twelve hands, i.e., the three 'bunchor'-bands.[3] Each stake is rounded at the top, i.e., that they be round. At the top, i.e., that they be not *like* oars. Pushed down by the hand, i.e., thrust by the

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o laim, cona fírfaemann fe dul isin talmain. Traig co fuige deil norsan, .i. co dedal na orsan, .i. trosg co fuci in mad, .i. co bun in deilgenn in orsu fursin traigid, isin cach da cuaille. Uasa anamain, .i. uasa figi min fo urcomair na cisi draigin. Cis draigain, .i. iar nuachtur. Dia mbe fair, .i. ma dia roib in denam fin air is ditgaisi do na cethraib he. Is amne, .i. is amlaid fin dono in duinime. Isin airde ocus dluithe, .i. in dana dorind dec, ocus co na dig in fcuiche trit ar a dluithe. Inorucur, .i. cen fleda, cen berla, cen benna.

Smacht peata chuirre ocus circe, ocus peata oir, ocus peata mictire, ocus peata feineoín, ocus peata rindaig. Tairgille nairaib; ite indrin a caithée.

Smacht peata chuirre, .i. na huile en uile amuil na cerca, .i. leth fmacht forr na anmanna fa. Peata oir, .i. amuil na bu. Peata mictire, .i. amuil na cona cennda. Peata feineoín, .i. febaicc. Tairgille nairaib, .i. do éind tairgilli icaitir a fmachta, .i. gell toisithnech airi, gell da forepall; ocus is dar a cenn icthair fmachta ina fogiaib comaithcesa.

.i. Caithe athide tria, coín, ocus geoid, ocus ceasca, ocus peatada éuirre, ocus beich; a tairgille amuil cach ceathra dia mbe tairgille nairaib; muna be, a tairgille amuil cach ceathra olceana.

Caithée beach tria, is caithe fil do fuidaib, ni tairgille.

Cid fo dera fon, aire ad luamnaig, ocus ní fil tairceilla foraib, ocus fobith na nairleangead uile i mallie, ar is do eirlimeann ann fin na tuille aithgin na fmachta la comidiu? .i. eirlim dia narirtar a nerad frir fo fechadrum tria caithaid, co nach urusa can hic a énaid. Dia cathaid fil doib, .i. cathaid dia toraid.

Co hetanar in cathaig dia tora? Nin - aimser a coillter na beich, do beir in fer adgair comruc forr in mil fin, co teid a láim gabala, ocus fo geallad iarum. Is breath is éoir iarum ime, fainid in meala doib i tri .i. trian do urgnam, ocus trian do beathaib, ocus trian do tir. A trian in tire fanntar fon a tri

[1] *If he detains all that will be told him.*—This very obscure passage may possibly mean—"If he (the man injured by bees) retains in his mind all I shall tell him, in that case he may look after trespasses by bees in such manner that it will not be easy for the owner of the bees to escape paying him compensation." Per-

hand, so that it cannot but enter into the ground. A foot as far as the joint of the big toe, i.e., to the articulation of the big toe, i.e., a foot till it reaches the place, i.e., the point where the big toe separates from the foot, between every two stakes. Over the interweaving, i.e., over the fine interweaving *of oziers* over against the blackthorn crest. Blackthorn crest, i.e., at the top. If it be thus made, i.e., if it be of this make it is impregnable to the cattle. Similarly, i.e., the 'duirime'-fence is also thus *constructed*. As to height and closeness, i.e., the twelve hands, and so as that the small cattle could not pass through it on account of its closeness. Lawfulness, i.e., without spikes, without spears, without points.

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As to the 'smacht'-fine for pet herons and hens, and pet deer, and pet wolves, and pet old birds, and pet foxes; there is an additional pledge upon them; this is for their trespasses.

The 'smacht'-fine for pet herons, i.e. all *kinds of* birds are *liable to fines* like the hens, i.e. there is half 'smacht'-fine upon these animals. Pet deer, i.e. like the cows. Pet wolves, i.e. like the domestic dogs. Pet old birds, i.e. hawks. Additional pledge upon them, i.e. for addition their 'smacht'-fines are paid, i.e. there is a relieving pledge, a pledge of two 'screpalls;' and it is for this 'smacht'-fines are paid for their trespasses in co-occupancy.

As to the fines upon 'aithids,' *i.e.* dogs, and geese, and hens, and pet herons and bees; their additional pledge is the same as that of all animals, if they are liable to additional pledge; if not, their additional pledge is like that of cattle in general.

As for the trespasses of bees, it is trespass *fines* which are due for these, not additional pledge.

What is the reason of this, for they are swift, and there is no restraint upon them, and because they fly not all together, for it is for these 'airlim'-trespasses they do not incur restitution or 'smacht'-fine in the co-occupancy? i.e. 'airlim'-trespass, if he detains all that will be told him,[1] he shall now look to trespasses so that it is not easy to avoid paying for their damage. There are two fines for them, i.e. a fine of (*consisting of*) their produce.

How is the fine of their produce paid? Answer—At the time of smothering the bees, the man who sues makes a seizure of that honey, and it goes into the keeping of safe hands,[a] and it is afterwards submitted to award. The decision which is right *to make* afterwards concerning it is, to divide the honey between them into three parts, i.e. a third for attendance, and a third for the bees, and a third for the *owner of the* land. The third *allotted* for the land

[a] Ir. *Hand of seizing.*

haps, it should be rendered, i.e., "an 'airlim'-trespass in which they delay so long as to commit damage, it is not easy to avoid paying for their damage."

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.i. trian de don fir bed a beith fo bith in tire ar a ndreangad, in trian naile frannthar fon itir na ceithre comaicaib beda neara do, .i. i mbeith biad. Ma fciath lair in tomar fin cach bliadain fair, do beir faithe cach comaicaid bera nerom.

Trí cinaid do cirt .i. foxal, ocus dorthad, ocus corbad. Teora bairgena ferfuine cona nannlann; ocus ithe meit in annlainn fin comtigat cacha bairgine dib, ocus a lethat; ocus in tarbur if mo millid na ceile, if de ictur na bairgina fin if in cinaid do niat na cesca artig. Damna teora ferthar beta fiu lethfherull ina cinaid i lir .i. maethlucad beg, ocus lot froidi ocus coindi, ocus nocon amuil fogail comaithesr fin, acht a mbith amuil bithinne. A trí cinaid .i. fechtar lir [.i. re hathaib ocus muillenn]
* * * * * * * . . . . . .
ocus re dairib arbar; ocus ar fecht cethrair beor ata in frith fin, ocus noco teit tairis. Na petada en uili amuil na cesca ima fogladh comaithesa; teora * *

O'D. 2175. Na huili en amuil na cesca im a fogla coimcesa. Na tri cc fogla a tig, foxal, ocus corbad, ocus dorthad. A tri cc fogla a lir, maethlucad bech, ocus lot fóid ocus cainninne.

Teora bairgina ina fogail a tig, ocus leth fhethall a lir no a lubgort; ocus méit forra a fechtar lir, amuil na ruba eile No dono cena, coinu fiach bithinde uathib if na bechaib ocus if in aith. If ann ata a neiric a dubramar fomainn o na cesrad an inbaid atá an coimét a deir dligedh orra .i. codaill impa, ocus muna beth, co mbiad fiach duine caithi orra.

Na peta en uili amuil na ceathaima fogladh comaithesa. Teora bairgina a cinaig, no fect nammunn dib a tig, ocus leth fhethall

[1] *'Roidh'-plants.*—*Vide* vol 2, p. 420 *n*, 421.

[2] *And mills.*—Twenty-five letters have been here cut away with part of the lower margin of E. 3, 5, page 3.

[3] *Of co-tenancy.*—The MS. E. 3, 5, is here defective. What follows up to the article on hound trespasses, p. 120, is supplied from O'D., 2176 *et seq.*, and C. 29. See Welsh Laws, p. 692, folio edition.

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is itself divided into three parts, i.e. a third of it *is given* to the man who owns the bees on account of the land from which they come, the other two-thirds are divided between the four nearest neighbouring farms, i.e. where food (*for the bees*) is. If this distribution of it every year should be deemed tiresome, each nearest farm takes a swarm.

There are three trespasses of the hen, i.e., snatching away, spilling, and wasting. *The fine is* three cakes of man-baking with their condiment; and the amount of this condiment is *to equal* the thickness and breadth of each cake of them; and the corn which is more injured than the rest, it is of it these cakes *are made which* are paid for the trespass the hens commit in a house. *Three cakes for their trespass in the house.* The makings of three spindles (*full of wool,*) which are worth half a 'screpall' *is paid* for their trespasses in an enclosure *of a garden*, i.e. the soft swallowing of bees, and the injury of 'roidh'-plants[1], and garlic, and this is not as trespass in the co-occupancy, but is regarded as viciousness. Their three trespasses outside the enclosure, i.e. in kilns and mills[2] * * * and on corn-stacks; and on seven hens this addition is, and it does not go beyond them (*that number*). All the petbirds are as the hens as regards their trespasses of co-tenancy;[3] three * * *

All the birds are as the hens, with respect to their trespasses in the co-occupancy. The three hen-trespasses in a house are snatching away, wasting, and spilling. The three hen-trespasses in an enclosure are soft swallowing of bees, and injuring 'roidh'-plants and garlic.

Three cakes *is the fine* for their trespass in a house, and half a 'screpall' in an enclosure or herb-garden; and 'the sacks' *are charged* upon them outside the enclosure, like other trespassers. Or, indeed, *according to others*, it is fine for thievishness[4] that is paid for *their swallowing* the bees, and for *trespasses in* the kiln. Where the 'eric'-fine which we have mentioned above is paid for the hens is when the restraint which the law orders is upon them, i.e. boots of rags upon them, and if they be not *upon them*, a fine for man-trespass shall be upon them.

All pet birds are like the hens with respect to their trespasses in[a] co-tenancy. Three cakes *is the fine* for the trespass of every seven birds of them *committed* in a house, and half a 'screpall' in an

[a] Ir. *Of.*

[4] *Thievishness.*—The 'bithbinche' of an animal is his acquired habit of injuring or trespassing.

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a lis, ocus leth meich a fechtas lis. Tas lan ime ata sin, ocus a leth tas leth ime, ocus cin ni mas cin ime itis. Cu cochluib umpu sin; no dono, fo cuis a mbaile as fo bu cinnti leis a nemthiachtain ass; fiach duine [caithe] imurro, fosfu muna fuilitt cochla umpu, no munas la iat conais ass fo bu cinnti leis a nemthiachtain.

Teora bairgina fesfuine co na nannlunn bresaín cacha praithi as fé bairgina banfuine, tri bairgina coisci and, ocus an cétna deorna; uair is amlaid ichtas meth in comaithcesa, leth do coisci and ocus leth deornain; ocus ni cutruma a log, uair in tochtmad fann ochtmogat do pingind log na tri mbairgin coisce, ocus in fechtmad fann fescat do pingind as na tri bairgina eornad. Ocus tabuis na fé bairgina sin as tri bairgina fesfuine, feorling co leth ocus tri fanna dreorling ocus dechmad in dechmaid dreorling log ann, no na tri mbairgin isin. Cin do niatt na ceasca is in tig ata sin.

Damnad tri fertus beda siu leth fosepall ina cinaid a lis, leth meich ina cina[id] a fechtas lis.

A tri cinaid a tig, foxal, ocus dosta ocus corbu. A tri fogla a lis, maethlucud beag, ocus lot slóid ocus coindenn, no sri beochu ocus lis ocus cruacha. A tri foglad a fechtas lis, .i. se hathaib ocus muilenn ocus se daisib arba; no sri fabull ocus sri hathuib ocus sri gostuib; no dono, conid bu fogal comaithcesa doibsium na fogla sin, acht a mbeth amuil bithingi, ocus co fecht cesca ata in sith sin. Miach as ices na bi haimsitt, cumu leth meig as caileg; cuma cin cisci sri lubgost ocus beachaib.

C. 29. [Cesca; a taisgille amail cach cetha, ais ni aisgillad tas innsaic ocus imbe nindsaic fris; ocus cuad da oslach dec, do grán, is smacht fil doib sri cach naislim; ocus a commédh as na diccsed tas indsaic sin, imdibe a nedaig ocus uscomla fosaib.]

[1] *Enclosure.*—'Lis' means here, the enclosure of a garden where bees are kept.

[2] *Condiment.*—'Annlann' is any thing taken with bread, such as butter, sauce, bacon, &c. Butter and bacon are the kinds of 'annlann' usually referred to in these laws.

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JUDGMENTS OF CO-TENANCY.

enclosure,[1] and half a sack for *trespass* outside an enclosure. This is *when they have passed* over a full fence, and it is half *for trespass* over a half fence, and nothing if there be no fence at all. This is when they have boots of rags upon them; or, indeed, *according to others*, he (*the owner*) put them in a place from which he felt certain they could not come; but fine for man-trespass lies against them unless rag-boots be upon them, or unless they have been sent by a way through which he was sure they could not come.[a]

[a] Ir. *Their non-coming.*

Three cakes of man-baking with their condiment[2] of butter or bacon every quarter of a year, are the equivalent for six cakes of woman-baking, which consist of three cakes of oats, and the same *number* of barley; for the manner in which the sacks of the co-tenancy are paid, is one-half in oats and one-half in barley; and their price is not equal, for the eighty-eighth part of a 'ping-inn' is the price of the three cakes of oats, and the sixty-seventh part of a 'pinginn' is that of the three cakes of barley. And taking these six cakes as equivalent to three cakes of man-baking, their price will amount to a farthing and a half, and three parts of a farthing, and the tenth of the tenth of a farthing is their price, or that of these three cakes. This is *for the* trespass which the hens commit in the house.

The makings of three spindles which are worth half a 'screpall' *are due* for their trespasses in an enclosure, half a sack for their trespass outside an enclosure.

Their three trespasses in a house *are* snatching away, spilling and wasting.[3] Their three trespasses in an enclosure *are* soft swallowing of bees, and the injuring of 'roidh'-plants and garlic, or of bees, herbs, and *corn* ricks. Their three trespasses outside the enclosure, i.e., in kilns and mills and stacks of corn; or in a barn, in kilns and fields; or, *according to others*, these trespasses are not trespasses of the co-tenancy, but they are to be considered thieves,[b] and this *fine* runs[c] to seven hens. A sack for a hen that is not barren, and hence half a sack for a cock; equal is the *fine for* trespass of the hen in an herb-garden and for *the injury which she does to* bees.

[b] Ir. *As thievishness.*

[c] Ir. *This run is upon seven hens.*

As to hens: their additional pledge-*fine is* like *that of* every *kind of* cattle, for they shall not pass into a lawful place over a lawful fence; and a cup of twelve inches, of grain, is the 'smacht'-fine which is *paid* for them for every 'airlim'-trespass; and this when they are guarded so as that they may not pass over a lawful *fence*, their wings being clipped and spancels upon them.

[3] *Wasting.*—'Corb' is glossed 'cuireann,' spending, wasting, or consuming 'Corbad' (another form of the word) means also, dirtying, defiling.

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Na coin allta, ocus na finnaigh, ocus na bruin, no na bruic ocus na doain amuil na conu cenndu um a fogladh comaithcesa. Na haigh allta amuil na haighi ceannda um a fogla ⁊ comaitcesa. Na muca allta da mbetis ar cumus neich, amuil na muca ceannda.

Sic.

Na fiadu so amuil na ceannda is cormuil frin um fmacht; nois leth fiach uadaib na nanmann is cormuil frin, amail is leth fiach indtib sin.

Teora baighina a fmacht a tigh; cu ruigi fecht lethcruiuill fmacht a lis, ocus meich a fectar lis.

Gne eile. In corr ocus in fenen, amuich atait a cinaid nama. Nith in comaitcesa cu ruice tri fecht nanmanda, cid ile fealba beth ann, acht gu rabuid a comingaire cona mbeth ac denum na fogla; no nith for cach feilb muna fuilit a comingaire.

Cair—ciasa cathach so fich cu fri tir in comicaid? beirid chin conloin.

Cid fil a fogain? Buaine in conluain ⁊ talam, ocus talam dar a eire; ocus a teora heimeide in chonluain, a haimeid do im, ocus a haimeid do gruth, ocus a heimeid do taes ina dire. Toirced cach aesdriechta cona chinntaib do neach forairead, itir dire ocus aithgin.

Smachta comicheasa caide colann a feich, ar ni bi fmacht acht la colainn a feich? Fer ⁊ taib no [in] airceann ite colann a feich.

O'D. 2178.

[1] *Ownerships.*—A 'seilbh' means a distinct possession, the stock of a particular person.

[2] *Question.*—The text in E. 3, 5, is defective here.

[3] *The feeding.*—The term "conlon," or 'conluan,' means "dogs' excrement," and is so glossed in C. 2783, where this very paragraph is quoted, but in somewhat different language, thus:—"Cair—cisi caisi so fich in cu fri tir in comaitcesa, cid bese cin conloin." It is evident, however, from the gloss on the passage in the text, that the author of that gloss understood it as "hound's

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The wild dogs, and the foxes, or the badgers, and the 'togans,' *are* as the tame dogs with respect to their trespasses in the co-tenancy. The wild fawns *are* like the tame calves with respect to their trespasses in the co-tenancy. The wild swine, if they should be in one's power, *are* like the tame swine.

The *wild* deer *are* like the tame deer which are like them, with respect to 'smacht'-fine; or, *according to others*, it is half the fine of the animals which are like them, *that is paid* for them, as it is half fine *that is obtained* for them.

Three cakes *is* their 'smacht'-fine *for trespass* in a house; their 'smacht'-fine *for trespass* in an enclosure may amount to seven half 'screpalls,' and sacks *are due* for *trespass* outside the enclosure.

Another version. *As to* the heron and the hawk, their trespasses are outside only. *And* the fine in the *case of* co-occupancy extends[a] as far as three times seven animals, even though there should be several distinct ownerships,[1] provided that they are under common herding at the time of committing the trespass; or it extends to each distinct ownership if they are not under common herding.

[a] Ir. *The run.*

Question[2]—What trespass does a hound commit on the land of a co-tenant? The feeding[3] of him involves[b] a liability for his trespass.

[b] Ir. *Bears.*

What is *done* in this case?—To take away the hound's ordure from the land, and *settle the* land after it; and three times the bulk of the ordure is *to be paid* as[c] its 'dire'-fine, its bulk of butter, and its bulk of curds, and its bulk of dough. The support of all pet animals and their trespasses fall on the person who owns them, both as regards 'dire'-fine and compensation.

[c] Ir. *In.*

In the 'smacht'-fines of co-tenancy, what is the substance of the liability[d] incurred by them (*i.e., on their account*), for there is no 'smacht'-fine unless there be a substantial liability.[d] *The destruction of the* grass at the side or at the end *of the field* is the substance of the liability.[d]

[d] Ir. *Body of the debt.*

food," taking 'ton' to mean as it does in the modern language, 'food,' 'provision,' &c. "Cid berae cin conton," as quoted in the gloss C. 2783, means "who bears (or shall bear) the trespass of dogs' ordure," which is probably the true meaning of the clause in the text, though the glossarist understood it otherwise.

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Cair, .i. comaircim cia cin comaitecsa fuachtnaigser in cu re serann in comaithig. Beirid chin, .i. beirid cinta in con in ti tucustar lon bid don coin.

.i. Caithe con .i. a ceathair, .i. duinecaithe, ocus a urbach ceathra, fobach naitreibe, ocus conlon i tir. Cair—cid i fogain? Buaine in conluain rin i talam ocus fot into dara eire, ocus bochor fair co ceann mir. In cinaid aile o tá in cet chinaid .i. aithgin ineich ro bronna in cet cin, irin tanistae, a bar into.

Cid so dera son, ar ni teit ceathair a cét cin?

O'D. 2177-8.

[Cé ro tiragt in cu ar fearand in comaitig nochan fuil ni uad act muna dernnad conluan fair; ocus ma do roime, in tinad i ndernnaid do tochuilt, ocus uir do buain arr in airett ir léir balath in conluain, ocus uir min a comaignta into.

Irred dlegur buain in conlóin a talmuin gein do gabur a fug ann, ocus a fonnad ocus a fálad, ocus uir min a comaignta ar son aithgina. Ir derbarc flainti rin; act co nderchet da each um carputt hi coruitt and ocus congledet and, ocus conaidgen a fiacla ni don feor oga gleit. Ocus a tri himett in cacha ar son aithgina, ocus a mét dim, ocus a mét do thaer, ocus a mét do gruth; ocus in ni dib rin na fagtar, geibid greim in .ii. tarélri. Ocus mad i fiadnairi fir bunad do nét in cu conluan ar in fer, co mbet fiad duinecaithi uad and.]

Cid fil a fogain? .i. cid fil irin niadnairin, irin fogail comaithcesa. Buaine in conluain, .i. buain cacha in con ar in talmain. Ocus talam dar a eire, .i. talam aili dara eiri, .i. a fonnad ocus a falad. A teora héimeide, .i. in conlon into ar son tire. Ina dire, .i. ar son fmacta. Toiscead cach aerdrecht .i. taisced cach aneclta ro uairi deisibe cona dernat fogail. Cona chinntaib, .i. dic, dia

[1] *Four.*—In C. 29, the reading is ceathair, four; which seems to be the correct one. 'Ceathair' usually means 'dirt, filth,' a sense which the context does not appear to warrant here.

[2] *Four times.*—The original is defective here. Taking 'ceathair', 'four' or 'a quadruped' to be the correct reading, the sentence may mean, "What is the reason of this, for a quadruped does not go *in payment* for its first crime?" Taking

Question, i.e., I ask what trespass of co-tenancy does the hound commit in the neighbour's land? Involves a liability for his trespass, i.e., the person who has given store of food to the hound is accountable for the trespasses of the hound.

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That is, the trespasses of hounds, i.e., four[1], i.e., man-trespass, and mangling of cattle, breaking of dwellings, and committing nuisances on land. Question—What *is done* in this *latter case?*—To take that ordure out of the ground, and *place* a sod thereon afterwards, and cowdung *is to be left* over it to the end of a month. *As to* the other trespasses from the first trespass *out*, i.e. compensation is to be made for the thing injured by the first trespass, for the second, the life *of the hound* is taken.[a]

[a] Ir. *Its death in the case.*

What is the reason of this, for he does not repeat the first trespass four times?[2]

Though the hound should come on the neighbour's land there is no fine[b] upon him (*the dog*), unless he has committed nuisance upon it; and if he has, the spot on which he has done it, is to be dug up, and the clay to be removed therefrom as long as the smell of the ordure is perceived, and fine clay of the same nature *with that taken away is to be placed* thereon.

[b] Ir. *Nothing.*

What is required by law is, to remove the dog's ordure out of the ground as far as its juice is found, and it (*the ground*) is to be pressed and stamped upon with the heel, and fine clay of the same nature *is to be put there* as compensation. This is the test of reparation; that two horses of a chariot in yoke come there and graze there, and if no part of the *sod of* grass stick to their teeth in grazing on it *the reparation is complete.* And three times the size of the ordure *is due* for compensation, and[3] its size of butter, and its size of dough, and its size of curds; and the part of them that is not obtained in the one is to be claimed in the other afterwards.[4] And if it be in the presence of the owner that the hound has committed nuisance on the grass, a fine for man-trespass shall be paid by him for it.

What is *done* in this case? What is *the reparation* in this case, for the damage in the co-occupancy? To take away the hound's ordure, i.e. to take away the hound's excrement out of the ground. And *settle* the land after it, i.e. to put other earth there after it, i.e. to press it and to trample it with the heel. Three times the bulk, i.e. of the hound's excrement *is to be given* for it as 'dire'-fine. As its 'dire'-fine, i.e. as 'smacht'-fine. The support of all pet animals, i.e. every valued toy-animal is restrained by it that they commit not trespass. And their trespasses, i.e. to pay, *i.e.* if they have committed 'ceaċaiṛ to mean 'dirt,' or 'excrement,' the meaning would be for "excrement does not go as a first trespass."

[3] The 'ocuṛ' in the original seems superfluous, unless it is meant for .ı.

[4] *Afterwards.*—That is, if it be not obtained in butter, it shall be given in dough, &c.

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ndernat cinaid. Do neach forairfead, .i. do neoch fuachtnaigit. Itir dire, .i. nateora aimeiti. Aithgin, .i. in feoil.

Smachta comcheafra, .i. in ni fmachtaigter ir in achechurcumaide, na fmacta .i. meich. Caide colann a feich, .i. aithgin in neich millter ann. Ar ni bi fmacht, .i. uair noco bi in ni fmachtaigter ann act la taeb aithgina colla na fiach .i. meich. Fer i taib, .i. in fata. No airceand, .i. in gairit. Ite colann a feich, .i. a aithgin in inbaid ir e ro loited and.

Mbrugrecht, cia ro neirdar? Racht mbroga ron, ar na horr neach brog a comicaid, ar ni bia fid a tire, ar nach orba, ar nach ara, ar nach aitreaba; ara tairgealla cach ara ceathra for cach naile, for cach tairrce, for cach fuire.

Mbrugrecht, .i. riecht fri brug .i. brug, no ir nid coir dirgetu. Cia ro neirdar? .i. cid ar a raitter, no cid ara nairneotar ereic. Racht mbroga, .i. dirtaide in ferann in ni hirin. Ar na horr neach brog, .i. itir fer ocus aithur, .i. ar na ra foirrgea nech ferann a comaithig. Ar ni bia fid a tire, .i. ar na boinge fid a ferann. Ar nach orba, .i. airbeda na naileda .i. tige and. Ar nach ara, .i. ar na derna a ar. Ar nach aitreba, .i. a tigi, no aite, no a maille Ara tairgealla cach .i. co tuca cach gell toirichedh fri cach cinaid do niat a cethra im dul tar in aile. For cach tairrce, .i. frir cach tarrfarcae, fri cach cae do niat tairir. For cach fuire, .i. for cach forith do niat.

.i. Ataat teora fealba na beiread ba dona hib caithaib feo, .i. rud, ocus roilbe, ocus foach tuaithi. Ir forgaib i cinaid inn rin, uair ira nirind do cach ceathra olceana.

Teora caithe fil do ceathra; ni coibeir arfeanadar, .i. caithe thar airbe, ocus caithe tairrce, ocus caithi fuirid. Mad caithe thar airbe, ocus bid an ime itir cach da comithach, ir leth cathaid

[1] *Two 'screpalls.'*—That is, to secure the observance of the common usage. This pledge was hung upon a rack in the neighbour's house at the foot of his bed. Vid. p. 75, *ante*.

trespass. To the person who owns them, i.e. to the person to whom they have done damage. Both as regards 'dire'-fine, i.e. the three equal bulks. Compensation, i.e. of the grass.

The 'smacht'-fines of co-tenancy, i.e. the thing which is commanded in the common tenancy, the 'smacht'-fines, i.e. sacks. What is the substance of the liability, i.e. compensation for the thing which is damaged. For there is no 'smacht'-fine, &c., i.e. for the thing which is commanded for it is only for the sake of compensation for the substance of the liability, i.e. sacks. Grass at the side, i.e. lengthwise. Or at the end i.e. shortwise, *or in breadth*. Is the substance of the liability, i.e. compensation when it is it that has been injured.

Farm-law, why so called? That is the law of farms, that no one may injure the farm of his neighbour, that he may not cut down the wood of his land, that he break not, that he may not plough it, that he may not inhabit it; for every man shall give additional pledge for his cattle in respect of every *passing over a* fence, for every breach, for every rushing over.

Farm-law, i.e. the law for the farm, i.e. the farm, or the regulations which are required for it. Why so called? i.e. why is it so called or denominated? The law of farms, i.e. that is, this is the regulations of the land. That no one may injure the farm *of his neighbour*, i.e. either in its grass or corn, i.e. that no one may injure the land of his neighbour. That he may not cut down the wood of his land, i.e. that he may not cut the wood of his land. That he break not, i.e. the stakes or pales, i.e. of a house there. That he may not plough it, i.e. that he may not till it. That he may not inhabit it, i.e. *that he may not fix upon it* his houses, his kilns, or his mills. For every man shall give an additional pledge, i.e. that every one may give a relieving pledge (*a pledge worth two 'screpalls'*[1] *to insure the payment of the fines imposed*) for every trespass which his cattle commit by going over the fence. For every breach, i.e. for every crossway, for every passage which they make over it. For every rushing over, i.e. for every great running over *it* which they make.

That is, there are three lands in which cows are not fined for these trespasses, viz., *a trespass in* a wood, *a trespass in* a moor, and a 'foach-tuaithe'-trespass. Their trespass is condoned here, for every kind of cattle may be in a wild place.

There are three trespasses of cattle; they are not equally paid for, viz., a trespass over a palisade, and a trespass by a breach, and a trespass by rushing over. If it be trespass over a palisade, and that there is a bad[2] fence between every two neighbours, it is

[2] *Bad.*—For 'an' in the Irish of this line, and also of the next line, C. 30, reads 'ain.'

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fil and, ar conlui an anime in cataig. Marob ar aile in fir bed a ai do digrid, ir obcataig fil and, ar ni fogna laim a laim muna derna ar feirc, no tri omain, no tri digernus. Ir de arrubrad; inpia prefiu adgara coimdigter ina eigi.

Cair—caide tairrce? Taigacht tar feilb no tar a di. Tarrrce dona, dul tar rod, dul tar abind na be fnam doib. Tairrrce tar fag neiteanta.

Cáir, .i. comairdm caiti in tarddur cae .i. cae tairir. Taigacht, .i. t[aigacht] dar da airdenn, no dar ceidri airdeind. Tar feilb .i. dar fedunn in boaire .i. teora foirge ocus urdar fledcaid. No tar a di, .i. tar da fedand. Dul tar rod, .i. ledriach tairrce i ndul tar ledclad in roid .i. co led ime .i. fri hime amuich. Dul tar abind, .i. ar gheim led imé inni tar a necadar ann. Na be fnam doib, .i. mad fnam doib ir fiach airlime ind. Tairrrce tar fag neiteanta, .i. tar fedann in di eirged ar a fird .i. in deifeid. Tar fag, .i. tar fic .i. dir.

.i. Ataid dono tri tairrrce .i. tairrce tar rod, ocus tairrce tar abind, ocus tairrrce tar comdad. Mad tairrce tar aibind domain na be dreoir, ir ógcataig fil ann, arus gleid dar indric inn fin. Mad tairrrce tar berna tar rod, do duit ceathruimde fridin for talmain, ocus argeanar an aill, arus led do fallaib, an aill do doebdadaib; a led na faille fanntar atarru i nde. Mad tairrrce tar comdac airim i mbiad da dreabar im edtreabar, irred in cetna dono; fannaid a faill atarru in dag ime; ni legad ime forra nedtreabar. Ir ruiriu iarmota fin; ocus ir cataig na fridgaib fola, ar ni dlegar imuaim folad

[1] *Ina eighe.*—This phrase may possibly mean, "What exists before it is prohibited is maintained afterwards."

[2] *Aircenn.*—A piece of land containing 7,776 feet, or half a 'tir-cumhaile.'

[3] *Half fence.*—In O'D., 2179—the gloss runs thus, "Dul tar rott .i. eiric tairrce tar led ime i ndul tar leath clad in roid, &c. Going over a road, i.e. the 'eric'-fine for a breach over a half fence is *due* for going over one wall of the road. Going over a river which they have not to swim, i.e. the 'eric'-fine of a breach over a half fence is *due* for this also. What makes the breach here the same as passing over land is, the going across the road which has only half a fence, or across a river without swimming, and there is full

estimated at half trespass, for the bad fence lessens the trespass. If they have come over the fence of the man whose property they are, it is full trespass, for "Hand in hand does not profit, unless it has been done for love, or through fear, or through lordship." It is from it was said: "Inpia resiu adgara coimdigther ina eighe."[1]

Question—What is a breach? Passing over one land, or over two. A breach is also going across a road, going across a river which they (*the cattle*) do not swim. A breach *is going* over the land of a deserter.

Question, i.e. I ask what is 'tarthus-cae', i.e. the way over it. Passing over, i.e. passing over two 'aircenn'-lands,[2] or over four 'aircenn'-lands. Over one land, i.e. over the land of the 'Boaire'-chief, i.e. three 'forrach'-measures, and the cast of a rod. Or over two, i.e. over two lands. Going across a road, i.e. half the fine for breach in going over one wall of the road, i.e. with half a fence, i.e. with a fence outside. Going across a river, i.e. what they have crossed in this case founds a claim of *fine equal to that of* half fence.[3] Which they do not swim, i.e. if they have to swim it, it is (*amounts to*) fine for 'airlim'-trespass. A breach over the land of a fugitive, i.e. over the land of the person who has gone away from his land, i.e. the deserter. Over the land, i.e. over 'fich,' i.e. land.

Now, there are three kinds of breach, viz., a breach across a road, and a breach across a river, and a breach across a neighbourhood.[4] If it be a breach across a deep river without guiding, there is full fine for it, for it is grazing beyond what is lawful in that case. If it be a breach over a gap or across a road, the one-fourth of it (*the fine*) falls to the ground, and the rest is paid, for half is due for the neglects, the other for the claimants; the half for the neglect is divided between them in two. If it be a breach over a neighbourhood *of co-tenants* where there are two residents *and* one non-resident, it is the same thing: they divide the neglect between them, of the good fence. No fence is charged upon the non-resident. It is 'ruiriu'-trespass afterwards; and it is a trespass that does

fence to the grass into which they go, or a half fence, for the river or the road is equal to half fence."

Dr. O'Donovan observes here.—"This gloss is also defective, and should run thus:—Crossing over a road which has only a half fence, to commit trespass, or over a shallow stream, which the animals can cross without swimming, is equal to a breach over a half fence; but if the river be so deep as not to be crossed without swimming, or the wall of the road a perfect fence, they are equal to full fence, and the breach over them is accordingly estimated."

[4] *A neighbourhood.*—That is, a settlement of co-occupants, or co-tenants.

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do comiteach fri ní ber lia ocus .i. na ceithri comitaigh ima biad, ocus na ceithri ecomitaigh ada nearam doibhibe.

Or airm i mbiad da comarba threabar im eareart, cid do gnitear fri heireart? Gaibead imme co nimcua, or muna be threabad inforair lair, gaibtear a fine comogair do co nimcuaad eire, no contardad ferdilhe co ceann mbliadna. Mad ferdilhe do bera a fine, imfean ceachtar in da comarba oghnime, ocus do berad comairfeam ind, ocus do airgealla cach dia raile ar iarum.

Or ma do ti eireart co threabairhe lair a nechtair, teid do chum a fine, folongad co ceand mbliadna, ocus ní dia threabairhe forrus ina tir, ocus ir dilear do uile.

Or airm, .i. or ar acus, ocar airm baile ndinad, i mbiat da coimetaid orba trebar i ferann in ti eirgher ar a firt, imon efert .i. ite da eferd deirge a methur, ocus eiferd tarcnam metair. Cid do gnitear, .i. cred do nitir fris in éferd. Fri heireart, .i. ar a firt. Gaibead imme, .i. gabair athgabail aire co nderna ime emcoir, .i. cora ime in cae ir coitechta do. Or muna be, .i. mana roib threabairhe inaiur aici. Gaibtear a fine, .i. gabar athgabail don ti ir compocur do don fine. Co nimcuaad, .i. co ndernat ime emcoir. No contardad ferdilhe, .i. co tucat dilgi in feoir ar fochraic, .i. in fine. Co ceann mbliadna, .i. ar re na fochraca. Mad ferdilhe, .i. ma dilgi in ferann do berat in fine ar fochraic do caitem in feoir. Imfean ceachtar in da comarba, .i. imid .i. uirmed cechtaide in da coimetaid orba fuil ime, co roib ime comlan ann. Do berad, .i. do berat airem cumaide ind im cutruma. Do airgealla, .i. do beir

[1] *Nearest to them.* This commentary is exceedingly obscure and difficult.

[2] *A deserter.* 'Esert,' is a landless man, a fugitive, or evader of his duties.

not involve reciprocal duties as regards goods, for reciprocity of goods is not enforced by law in the case of neighbours exceeding eight persons, viz., the four co-tenants immediately round about, and the four non-co-tenants, who are nearest to them.[1]

And in a place where there are two solvent landholders, and a deserter,[2] what is *to be* done with the deserter? Let him be distrained until he fences (*makes his fence*), and if he has not a habitable residence, let the next of kin to him of his family be distrained until they make the fence for him, or give up the right of the grass to the end of a year. If it be that the family give up the right of the grass, then let each of the two 'coarbs' *of the families occupying the adjoining lands* erect a perfect fence, and they shall bring equal stock upon it (*the land*), and afterwards each shall give the additional pledge to the other.

And if the deserter come outside having with him his cattle-farmer's requisites, he goes to his family, *and* they sustain him to the end of a year, and the part of his farmer's requisites which arrive in the land are all his property.

And in a place, i.e., 'os,' for 'acus' (and), and 'airm,' means place or locality, *i.e.*, where there are two solvent landholders in the land of the person who goes away from his land, or the deserter, i.e., there are two *kinds of* deserters, *a deserter* who deserts his land, and a deserter who evades responsibilities. What is done, i.e., what is done to the deserter. A deserter, i.e., 'as' (out of), 'a firt' (his land). Let him be distrained, i.e., let a distress be made upon him, *and let his goods be distrained*; until he makes a proper fence, i.e., until the fence is in the way that is legitimate for it *to be*. And if he has not, &c., i.e., if he has not a habitable residence. Let his next of kin be distrained, i.e., let seizure be made upon the next of kin to him of the family. Until they make the fence, i.e., until they make the legitimate fence. Or give up the right of the grass *as the rent*, i.e., the family. To the end of a year, i.e., for the term of the hire. If *it be that the family give up* the right of the grass, i.e., if it be the forfeiture of the land that the family consent to[a] for the hire to consume the grass. Let each of the two 'coarbs' erect a perfect fence, i.e., they fence, i.e., both of the two landholders who are adjoining it, shall make a fence, so that there shall be a perfect fence there. Shall bring equal stock, i.e., of cattle, i.e., they shall bring a common stock there *into the deserter's land* in equal proportions. Shall give the additional pledge, i.e., each of them gives the relieving

[a] Ir. *Cire.*

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cach dib gell toirtechech da ceile, ar iaram, .i. gell da fcrepall. Comairream, .i. do indillib. Dia raile, .i. a tir na eirenta.

Or ma do ti eirean, .i. or ar acur, ocur ma dia ti in teiren amuich dia nechdair cor ani ir trebar do leir do ernud. Teit dochum a fine, .i. teit ar tic, tic do cum a fine bodein. Forlongad co ceand mbliadna, .i. imroilngid a fine he ar fochraic co cenn mbliadna, .i. ar in re bir in feaman ar fochruic, .i. dreor ocur duirce.

O'D. 2183. Ni dia treabairre, .i. [do dentaib] do airbedaib ocur do ailedaib. For rig, .i. airgiter ara cind in feran. Ir dilead do uile, .i. don eren; ocur ar re na fochreca taimic amuich he ann rin, ocur in focraic

O'D. 2183 don fine, ocur na denta, [na harbunna ocur na tige], don eren.

.i. In tan biad da treabar im edtreabar, gaibead eire, dia nairfead; muna airfead, gaibead ar fine commicuad frin tir a mbratar, ocur co darddad dilri fer gleithe co ceann mbliadna, ocur dilri cad led eatarba fri hime, ocur adaragad in da comtad iarum amuil bid leo fadein, ocur tairgella cad fri raile. A rmacta tra, id gealla dored, id raige; .i. geall fri hime, rama (.i. a tir buic) fri clair, fcrepall a riu, ocur a leagad aen fead; foc fri corraig, fcrepall a riu, ocur a leagad da dri; biail fri duirime, .i. a leagad da di, go ra riu fcrepall; rigba fri felmag, no frir in naile, fcrepall a riu, ocur a leagad da di, no ritaile no beoleagad. Narcaigter na rmacta fo iarum.

O'D. 2183. [In teiren ir he a aidne: duine fand bir idir in da comorba tre na trebuiri; gabur athgabail de mad tait feoit aice; fogellta ocur bled di dul ina ceand, ocur ni teit lobu. Muna fuilit feoit aigi, adgabail do gabail dia inbleogain, ocur fogeilt ocur bled do dul ina cenn, ocur ni theit lobu.

Ma tainic in teren amuig iar rin, tabruit a fine fearand do re re na fochreaca, ocur berait fine in fochraic, ocur ni dia trebuiri foric ar a cind do breit don eirren. Mad ta ferand acon fine, ocur ni tabruit dorum, a fochruic do bred don lucht amach, ocur ini na ro dilrig dliged do na dentaib, cennaigit

[1] *To each other.*—The text is very defective here.

[2] *Fused.*—'Leagadh' means, literally, 'melting.' The instruments mentioned here were to be prepared by fusing the metal, the harder the material to be operated on, the more numerous were the fusions of the metal forming the implement, and consequently the more valuable the instrument.

[3] *Expense of tending.*—The wages paid to shepherds, or caretakers of the cattle.

pledge to the other out of it afterwards, i.e., a pledge of *the value* of two 'screpalls.' Equal stock, i.e. of cattle. To the other, i.e. out of the land of the deserter.

And if the deserter come, i.e., 'os,' for 'acus,' (and), and if the deserter come outside *the land* with the number of cattle which renders him solvent. He goes to his family, i.e., 'he goes,' for 'he comes,' *i.e.* he comes to his own family. *And* they sustain him to the end of a year, i.e., his family supports him for pay to the end of a year, i.e., the term during which the land is *let* for hire, i.e., with grass and water. The part of his farmer's requisites, i.e., of erections, of stakes and of poles. Which arrive, i.e., which are required of him in the land. Are all his property, i.e., of the deserter; and after the term of the hire he came outside in this case, and the hire *is given* to the family, and the erections, the corn crops and the houses, *go* to the deserter.

When there are two men fulfilling their duty, and one who does not fulfil his duty, let them distrain him, if he has property; if he has not property, let them distrain his family until they fence their brother's land, or[a] until they give the right of the grazing to the end of a year, and the right of every half separation respecting a fence, and the two co-tenants afterwards proceed as if it (*the land*) was their own, and they deliver pledges to each other.[1] The 'smacht'-fines now, *which they pay*, are the pledges which precede, i.e., they are these, i.e., a pledge for fence *stakes*, a spade, i.e., in soft land, for a trench, a 'screpall' is its worth, and it is to be fused[2] (*melted*) once; a 'soc' for a stone wall, a 'screpall' is its worth, and it is to be melted thrice; a bill-hook for a hard fence, i.e., it is to be fused (*melted*) twice, so that it is worth a 'screpall'; a wood axe for a 'felma'-fence, or for a palisade, its worth is a 'screpall,' and it is to be melted twice, or *to undergo* long-heating, or live-melting *is to take place*. These 'smacht' fines are made binding afterwards.

[a] Ir. *And.*

The deserter is thus known: a weak person, who is situated between the two 'coarbs' that do their duty; he is distrained if he has 'seds;' the grazing and the expense of tending[3] shall be added, but forfeiture shall not be[a] *allowed*. If he has not 'seds,' distraint shall be made on his next of kin, and expense of grazing and tending shall be added, but forfeiture shall not.

[a] Ir. *Goes not.*

If the deserter has come *from* outside *into the territory* after this, his family shall give him land during the term of the hire, and the family shall obtain the hire, and the part of his farm-buildings which he may have found on his coming back shall be obtained by the deserter. If the family have land, and they give not *of it* to him, the hire is to be obtained by those *who are* outside, and the portion of the erections which the law has not declared

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pine dorum. Muna fuil feranb itir ac pine, comroinnit itir re ocur raobar don focpuic, ocur cenbcadrum féin dó ini na ro dilgeb do na denbaib. Má tá fearanb ac pine, ocur ni gabunnrum, ir comroinb itir pé ocur raobhar don focpuic, ocur ni beirrium ni do na denbaib.

Már for óin do rabad in fearann, ocur nip cinbeb pé airigde fair, cid fada ber fair, cid re decbriur cid re hinbecbriur deadar, ir a denda do fagbail do.

Mara fuagrad ada fair, cid re decbriur cid re hinbecbriur do gneid, ir a denda do breid do leir.

Mád ro cinbeb pé fair, ocur tainic in re, ir a denda do fagbail do. Mar he féin do coid arr re decbriur, ir comroinn itir re ocur raobar. Mar a hinbecbriur do coid arr, facbuit na dénda.

Mara fuagrad adá fair, cid ir in ló deidenach fuagurtar dó i hinbecbriur, beirid leir a denda.

Mád re decbriur ro fuagrad dó, ir comroinn itir pé ocur traothur. Mar do duar no dailech fair do rabtad, ocur mad ro cinneb pé fair, ir a beid for in pé.

Muna ro cinneb pé fair itir, ir airdmer comaigtech fair. Mar pé caibem a feoir ocur dia trebuire do rabtad, ir trian cach mil for a mbi in fbb.

Mád re caibeṁ feóir nama tucad he, ir fer adaig fecht mbu i tir a céili, for fagbid in fechtmad boin dia bliadain, ocur log bó do daoirib ná tarlo for áird do bed a foeitfecht aigi.

Mad ro adaig cin ar, ocur ro hairfeb, ir dilgi in air co na fil, ocur cuic feoit. Munar adaigeb cin ar, ir flán, act in ni dia trebuiri forfuicc ar a cind in a tir, ir dilet dó.

Duine ro fuir nád éidir fubu na fubu a ferann do denam, no cid éidir noca ail léir a denum; conid eb do nithefr fuir

[1] *Increase.*—That is, which increases in size, condition, &c.

forfeit, the family shall purchase for him (*the deserter.*) If the family have no land at all, they equally divide the hire between the time and the labour, and he himself purchases the portion of the erections which the law has not confiscated. If the family have land, and he (*the deserter*) would not accept *of it*, the hire shall be divided equally between time and labour, and he shall obtain no portion of the erections.

If the land has been let for hire,[a] and no time has been specified, whatever length of time he shall be upon it, whether with necessity or without necessity he goes, he shall leave behind his erections.

[a] Ir. *Loan.*

If he is noticed *to quit*, whether it is done with necessity or without necessity, he may carry away his erections with him.

If a term has been specified for him, and the term has expired,[b] he shall leave his erections *behind*. If it is he himself that went away *of his own accord* with necessity, it (*the value of the buildings*) is to be divided between time and labour. If he has gone away without necessity, he shall leave *behind* the erections.

[b] Ir. *Come.*

If he is noticed *to quit*, though he should be noticed on the last day *of his term* without necessity, he may carry off his erections.

If he has been noticed *to quit* by necessity, there is to be a division between time and labour. If it (*the land*) was given him for manure or dung, and if a time has been specified for it, it shall be according to the time.

If a time has not been specified at all, it shall be settled by the award of the neighbours. If it is to consume its grass *only*, and for forming erections it was given, it is one-third of every animal on which there is increase[1].

If it is to consume its grass only it (*the land*) was given, he is as "a man who has placed seven cows on the land of his neighbour," the seventh cow shall be left *as payment* at the end of the year, and he has in reserve the value of another cow in sheep, which he does not bring into the account.[c]

[c] Ir. *Bring forward.*

If he has stipulated not to plough, and it has been ploughed, the tillage and the seed are forfeited, and five 'seds'. If no condition has been made as to not ploughing, he is free, but the portion of his farm buildings, which he found on the land before him, becomes his by right.

A deserter. This is a person who is not able to perform service of attack and defence for his land, or though he may be able is not willing to perform them; what is done to him is to give him notice

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arad ocus trosgad do tabairt air, ocus athgabáil da gabáil de iar sin; ocus noca nuil cinne airisi for in athgabail sin, acht athgabail da raoilter a tiachtain re dligedh, ocus tét fogeilt ocus bleth ina cenn, ocus ni theit lobu.

Mana buil cruth aigi féin, tabrad arad for inbleogain is neara dó, ocus athgabáil do gabail de iar sin; ocus noca ndernna fubu ocus fubu in feraind; noca dilsidhe in ferann don ti do denad fubu ocus fubu.

Magedh do sindse in sine in fearann do tabairt ar fochuic, mad táinic in teiged amúig iar ré na fochraca, dilgi na fochreca don sine, ocus ni dia threbuidhe forruicc ina thir, is dílem dóran .i. do eirgert.

Mar re ré na fochraice táinic amúig he, denait in sine a impulung gu tí in ré; ocus ma do beir in sine fearann dó, ocus geibidhium in fearann, dilgi na fochruice don sine, ocus dilgi na ndénta don eirgert.

Muna tabrat in sine in fearann do, ocus ata fearand acu, ccus geibhim ferann, airec na fochreca ón sine amach, ocus fuarluicitt in sine a dénta ocus a feotta dorum.

Mad tairgit in sine ferann dó, ocus ni háil dórum a gabail, cach ni ro dilig re don fochruic bid aca sine; cach ni na ro dilig don fochruic icarom fair in fear amach, ocus beiridh in fer amach na dénta, no fuarluicid dorum iad. No dono, éeana, cach ni ro dilig re don fochruic bid aca sine, cach ni na ro dilgi ré don fochruic, is a nairic on sine amach, ocus beiridh in fear amach na dénta, no fuarluicid iadd.

Muna fuil fearann ag sine, ocus ro gebudhum ferann, cach ni ro dilig ré don fochruic bid oca sine; cac ni na ro dilgig ré don fochruic a airicc o sine amach; cach ni na ro dilgig ré do na déntaib, beiridh in fer amach, no fuarluicedhum iadd.

Fearann duine eile tucusdar ar fochruic annsin. Mar e a ferand budéin tucusdar duine ar fochruic, acht mad ro cindusdar

[1] *Who is outside.*—This seems to mean "the man who holds the land."

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by warning and fasting, and make a distress upon him afterwards, and there is no certain restriction upon this distress, but *that it shall be such* a distress as that it may be thought sufficient to induce him to come (*submit*) to law, and expense of feeding and tending shall be added[a] to it, but forfeiture is not added.[a]

[a] Ir. *Goes.*

If he has not cattle himself, let him give notice to his nearest of kin, and let distress be taken from him afterwards; and he has not performed the service of attack and defence *due* of the land; the land is not more the rightful property of him who should perform service of attack and defence.

If what the family has done is to let out the land on hire, *and* if the deserter has come outside after the term of the hire, the hire is due to the family, and that part of his farm requisites which he found on his land belongs to him, i.e., to the deserter.

If it is before the term of the hire he has come outside, the family shall support him until the expiration of the time;[b] and if the family have given him land, and he accepts of the land, the family are entitled to the hire, and the deserter is entitled to the erections.

[b] Ir. *Until the time comes.*

If the family do not give him the land, when they have land, and he gets land *elsewhere*, the family shall return the hire out, and the family shall redeem his erections and his 'seds' for him.

If the family have offered him land and he is unwilling to accept of it, every part of the hire which time has rendered forfeit shall belong to his family; every part of the hire which is not forfeit shall be paid to the man *who is* outside, and the man *who is* outside[1] shall bring away the erections, or they shall be redeemed for him. Or indeed, *according to others*, every part of the hire which time has rendered forfeit is *due* to his family, whatever part of the hire has not been forfeited by time shall be returned by the family out, and the man who is outside takes the erections,[2] or they (*the others*) redeem them.

If the family have not land, and he (*the deserter*) obtains land *elsewhere*, whatever part of the hire time has forfeited belongs to the family; whatever part of the hire time has not forfeited is to be returned by the family out; whatever part of the erections time has not forfeited the man outside takes; or he (*the deserter*) redeems them.

It is the land of another man that he has, in this case, let out on hire. If it be his own land a man has let out on hire, but so

[2] *Erections.*—'Όέντα' means houses, folds, stalls, sheds.

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ré airithe eatarru, cemuid irin dara cét lá deidenaid don ré ro fogurtha he a nindeidbirius don fearann, in fochrúic ocus na denta do breid dó léis, ocus ciamad irin dara cét lá deidmach don ré do deachadum a nindeidbirius de, in fochruic ocus na denta dó. Ma dainic deidbirius do neacdar de, is comroinn itir ré ocus tradthus don fochruic ocus do na dentaib.

Ar fochraic tucustar duine a fearann annsin, ocus mad do denam dénta air tucustar he, acht má ro cinnustar ré airithe air eatarru, cid re deidbirius cid re hindeidbirius focairtha éirium don fearann, is na denta uile do breid dósum leis.

Mad ro cindustar ré airithe etarru, acht mad ta ar in fearann he fisin ré sin, is dilsi na ndénta dfer bunaid in fearainn i forbu na ré. Re denum denta air tucustar duine a fearann and sin. Mas re denam tuair no aoileach air, acht mad ro eimdeiligustar ré airithe air, in fearann do beid ac on fir amuig fair in ré sin. Munas cinnestar ré airithe eatarru itir, in fearann do beid acon fir amuig, no gu tucad re a tuair nó a ailig aff.]

Ruirud dono, fith tar teora fealba, no ceitheora fealba. Odcathaig and sin, agus óg in follugad. Ruirid raithe dono, fith tar tri hairt[c]eann teora fealba; is ruirud, ocus is follugad, muna imge deithbire.

Ruirud dono .i. ise cuit in dono ann, uair tairisiste a dubramar romaind. Tar teora fealba .i. tar teora fearanna .i. boairech. No ceitheora fealba .i. tar ceithri fearannaib. Odcathaig .i. cin óg, cin comlan in ni hisin, .i. airlime. Agus óg in follugad, .i. is comlan in follugad sin do na buachaillib, is ime ata eisic comlan ino. Ruirid raithe .i. fith ro fata do denam doib dono, no feimnigud doib dono, co ro fada. Rith tar tri hairt[c]eann .i. fith tar sin cenn teora fearand. Is ruirud .i. is eisic ruidiba ino. Is follugad .i. is fail og do na buachaillib. Muna imge deithbire .i. mana roib deithbirus aca neimditin a mbuachaille.

as he has specified a certain time between them, even though it should be on the second last day of the term he has been noticed of necessity to quit the land, he shall bring the rent and the erections with him, and though it should be on the second last day of the term that he was warned off[b] *the land* without necessity, the rent and the erections are his. If necessity has happened to either of them, the rent and erections are equally divided between time and labour.

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[a] Ir. *Off the land.*
[b] Ir. *Went off.*

It was for hire a man let out his land in this case, and if he let it to erect buildings upon it, but in such a manner as that he has specified a certain time between them concerning it, whether it was of necessity or without necessity he (*the tenant*) has been warned off the land, he may take all the erections away with him.

If he has specified a certain time between them, but so as he has been on the land during that time, the erections are the property of the original owner of the land at the expiration of that time. It was to make buildings upon it a man has let his land in this instance. If it was for the purpose of making manure or dung upon it, but so as a certain time has been stipulated concerning it, the land shall belong to the "man without" during that time. If he has specified no particular time between them at all, the land shall belong to the "man without" until the time of his manure or of his dung has been taken out of it.

Running over now, *means* running over three holdings, or four holdings. There is full fine for this, for the neglect is complete. But a very long running names running over the three head-lands of three holdings; it is running over, and it is neglect, unless necessity excuses it.

Running over now, i.e. the force of the 'now' here is because it was of a 'tairsce'-trespass we spoke before. Three holdings, i.e., over the three lands (*farms or holdings*), i.e., of a 'bo-aire'-chief. Or four holdings, i.e., over four lands (*holdings*). Full fine, i.e., it is full crime, complete trespass, i.e., of 'airlim'-trespass. For the neglect is complete, i.e., this is complete neglect on the part of the shepherds, and it is therefore that complete 'eric'-fine lies for it. A very long running, i.e., a very long running is made by them, or a running by them to a great length. Running over the three head-lands, i.e., running over the very extremities of three lands. It is running over, i.e., it is 'eric'-fine for running over, that is *paid* for it. It is neglect, i.e., it is perfect neglect on the part of the shepherds. Unless necessity, &c., i.e., unless there was necessity which well screens the shepherds.

JUDGMENTS OF CO-TENANCY.

.i. Atait dono tri fuifrida ann: fuifre tar teora fealba, ocus fuifre fraite, ocus fuifre traćta.

Cesc—cod a midiuar fuifre traćta ocus fraite? Nin; Co rabadar ocht nurcorad dec and do fleascaċ. Is e fuifriud fraiti annsin ocus traćta, ar ni tairgella neaċ fri fraile iar sin ačt for ime indric, no abann domain, no fr , no allad.

Ma do cuatus na hindilli tar aen airchind, no tar da airchind, is eisic tairsce uadaib and; mad tar tri airchenn no tar ceithri airchenn, is eisic fuifriuda orro ann; ocus ethait ni ina fesc ocus ina nairlim, ocus noco nethait ni ina fuifriud
O'D. 2186. na ina tairsce. [Ocus ma do cuattar tar fearann sraid no tar da fearann, is eisic tairsce orra ann. Fiaċ fesi geimrid a fuifriud aoidče in geimrid; fiaċ airlime lae a fuifriud in lae.]

Cair—Caide an airceand?—Teora fairge ocus urcor flescaig, is eisde macc bundraige, a comfad and sin dono do traćt, leath in indriuc imme im rod. Imfean cach ber siu ocus anall, imfoilngead ime indric atarfu samlaid.

Cair—Cia med smachta fil a comiceas?—A dó; smacht ime ocus ceaċra, genmota caithe.

Ca med caithe fil a comicheas?—A teora; caithe aile, ocus caide ceaċra, ocus duine caithe.

Cair caide airceand? .i. comairċim caiti aithne na airchinde itir? Urcor flescaig, .i. ina fuilliud. Is eisde macc bund-

[1] *Spear-casts.*—That is as far as a 'flescach'-youth could cast a wand or spear.

[2] *If the cattle, &c.*—The Irish for the first part of this paragraph is found on the lower margin of col. 1, p. 4, of the MS. E. 3, 5.

There are indeed three kinds of running over; running over three possessions, and long running over, and running over a strand.

Question—How are the strand running over and the road running over estimated?—Answer: When there are eighteen spear casts[1] of a youth on it. That is road running over and strand running over, for no one shall give additional pledge to the other for this, except over a lawful fence, or a deep river, or *an inlet of* the sea, or a cliff.

If the cattle[2] have gone over one headland, or over two headlands, 'eric'-fine for breach *shall be paid* for them therein; if over three headlands or over four headlands, there shall be 'eric'-fine for running over *due* from them for it; and they eat something in their 'feis'-trespass and in their 'airlim'-trespass, and they eat nothing in their running over or in their 'tairsce'-trespass. And if they have passed over the land of one of grade (*a dignitary*), or over two lands, the fine of 'tairsce'-trespass is *charged* upon them for it. There is the fine for winter 'feis'-trespass for a running over on a night in winter; *and* the fine of an 'airlim'-trespass by day for a running over by day.

Question—What is the headland?—Three 'forrach'-measures,[2] and the shot of a rod cast by a youth, *i.e.*, the spear-youth, the extent of that of the strand is *equal to* half the lawful fence to a road. They reckon *the ditch* on the one side and the other, so that it makes the full fence, *and* thus a lawful fence is sustained between them.

Question—How many 'smacht'-fines are there in a co-occupancy?—Two; 'smacht'-fines of fence, and of cattle, besides the trespasses.

How many trespasses are there in a co-tenancy?—Three. Trespass of palisades, trespass of cattle, and trespass of men.

Question.—What is a headland, i.e. I ask how is the headland known? The shot of a rod cast by a youth, i.e., in addition to it. That is the spear-youth, i.e., it is the 'fleascach'-youth, i.e., the boy who

[2] '*Forrach*'-*measures*.—The 'forrach' was a measure of land containing 552 yards. (H. 3, 18, p. 146.)

JUDGMENTS OF CO-TENANCY.

faighe, .i. ise in fleschach .i. mac tiubhraicesr in mbunnraig. A comfhad .i. a coimed no a cutruma in ni sin a triachd marra, cid fesrann aili ar a mbi tectugad dechrad na hinoilli, biaid eisic fuidiu ind. Leath in indsruic imme, .i. smacht leth ime indraice a ndul tar leth clad in roit, is lan ime fosr in dara clud .i. se duine isin clud ocus se duine isin cuaille, .i. leth ime fos cechtar in da clad. Imsean, .i. airimed cach don leth seo ocus don leth aili iman rot, co roib lan ime and. Imsoilngead ime indsic, .i. imsoilngiter ime dligthech etarru amlaid sin. Atarru samlaid .i. itir in da clad.

Cair—cia meid smachta? .i. ciameit smachta uili is in comaithecus, is in naithachus cumaide, .i. cia lin fris a tabar smachta i comaithces. Smacht ime .i. in ni smachtaigter i ndul tar an ime. Ceathra .i. cethra conboing fos daingen, no dono ar a namain .i. in da sesrepall .i. in fiach dunacaithe, no na meich. Genmota caithe .i. cenmotha in smacht uil o na daimib do niat sis in fesrann .i. bruiseb in aile.

Ca meid caithe .i. cia meit cinta do niat na daine sis in fesrann is in aithecus cumaide. Caithe aile .i. dasdaid a tri cuaille. Caithe ceathra .i. a cethra do cur ind .i. na meich. Duine caithe .i. na cinta aili do niat na daine sis in fesrann ina ecmais sin.

.i. Cesc—Cadiad caithe fealba? .i. caithsi alaile cetamus, ocus a caithsi fadesin, aimsir imbi fraith caich a tire ar loingfeachaib ocus ar conaib allaib, ocus cathsi a roithe.

Cesc—Cad iad caithse aile? A nasdad it feilb cene fola aile a nuis, ocus frathus a ime fosd iasrusidiu, ocus dilsi neich fo ordan fosd tairisin; ocus indilsi neich fo ordan uait fusidiu. Cin do cuaillí fosd, ocus do liac, ocus do clasi, ocus do crandche; ocas cia fuibes, ocus cia fo orat, cia fobdaid.

Caithe ceime tra; a leth caithe fosd cach aen bliadna, no ogchathaig cach ara bliadain. Do baibes caithe lia ndibad fadesin.

Cesc, tra,—cid frisa nastaithes cáithe aile iar na ndibud? Adaintes fri cuimne feanchad indraice do do airisithes in ime, co clandad leo in ime fa tri cen fena,

casts the rod. The extent i.e. the same extent or the same proportion of the sea shore, if the cattle should pass over it into another land lawfully occupied, there shall be 'eric'-fine for the running over *due* for it. Half for the lawful fence, i.e. the 'smacht'-fine for half the lawful fence is *due* for going over the one mound[1] of the road, it is full *fine* for *going over* the second wall, i.e. six hands is the *height of the* mound and six hands is *that of* the palisade, i.e. half fence *is reckoned* for either of the two mounds. They reckon, i.e. for they reckon each on this side and the other of the road, so that they make *or amount to* a full fence. A lawful fence is sustained, i.e. a lawful fence is thus sustained between them. Between them thus, i.e. between the two mounds.

Question—how many 'smacht'-fines? i.e. how many 'smacht'-fines are there in the co-tenancy, in the common tenancy, i.e. how many things are there for which 'smacht'-fines are paid in the co-tenancy. 'Smacht'-fine of fence i.e. the thing which is commanded *to be paid* for going over the fence. Of cattle, i.e. cattle which break through fastnesses, or indeed on being driven *break fences*, i.e. the two 'screpalls,' i.e. the fine for man-trespass, or the 'sacks.' Besides the trespasses, i.e. besides the 'smacht'-fine which is paid by men for the trespasses which they commit in the land, i.e. by breaking the palisades.

How many trespasses, i.e. how many damages do men do to the land in the common tenancy? Trespasses of palisades, breaking of stakes, i.e. a 'dartaidh'-heifer for three stakes. Cattle trespasses, i.e. to put cattle into it, i.e. 'the sacks'. Men trespasses, i.e. the other faults which men committed regarding the land besides these.

Question—What are the damages of possessions? i.e. the trespasses of another person, in the first instance, and his own trespasses, when every territory requires to defend itself against pirates and wild dogs, and the trespasses on his roads.

Question—What are the trespasses of stakes? To retain them in thy possession without sticking them in the ground, after which thou art responsible for the fence, and the right to the thing damaged is upon thee besides that; and the making good by thee of the thing *which has been damaged* is upon them. The default of thy stake *is* upon thee, and of thy flag-stone, and of thy trench, and of thy stake-fence; *and whatever damages shall result therefrom* by goring, or damaging, or wounding.

As to the trespasses in respect of a passage; half the fine upon thee every year, or full fine every second year. The trespasses are merged by the 'dibadh' of themselves.

Question—By whom are the trespasses of stakes established after the 'dibadh' of themselves? They are restored from the memory of a worthy antiquary by whom the fence was witnessed, so that the fence was planted by them thrice without denial.

[1] *Mound.*—'Cladh' means a wall of earth, a dyke, but it is commonly translated 'a ditch,' as in the term, a 'furze ditch.'

JUDGMENTS OF CO-TENANCY.

Cairi—Cid clannar aile? Noi ocus uail.

Cairi—caide uaill? Aile in ime fa tri cen fene. Or mad fenaigther cire noail no clanna? Lugu feandu innrice fiad a nimcu. Or muna beo feancaide, da bo-aire innrici do chur crainn, ocus ala hi dia lugu, ocus aire toingear itir dir, irred clannar aile irin.

Or mad in crich uile fo lad inna fecht nada dirigther? Nin. Ar adait in da bla dec frisi cuindrigther crich.

Cad iad friat? Nin. Clar bla, ail bla, find bla, noer bla, bla mucnaige, ocus gno bla, bla imfogla, ocus linn bla, fodairc bla, bla nearbaige, bla reime [clad bla].

Clar bla; crich annrin nad nincoircead riad comarba, ocus na cuinnridter feancaid.

Cerc—co fuidaigter? A himtomar i nde, i feilb ime biad. Mad fo bed da comarba, do fannaid friam.

Ail bla; crich incoirce ail adrada, no aíl annrcuiche, no crann, no lig, no ail leachta. Dia mbed fecht comarda dib and in tucht frin, cach ae ir arailiu, iri crich ann frin na cuingaidtear.

Fidbla; crich fon incoirce bile feada, no fid comartha hé, re feda comarid aé cach ae uar araili, no all bog, no fen roil cudmaide do leicead. Condrigther dond cricha frifin, a mbed feancaid co nindorcid for ni ir derb.

Noer bla; .i. crich ina coirce guire noire no fearca i fid no a muig. Adruige crich cadesin, munur gluaired feancaid, ar id comarda criche in frin.

Bla mucnai; .i. crich fon incoirci cet bona crann no cuaille i talam no dibill muilind, no feantraigead fo tuind. Ir dai am-crich, muna bé roil con a roirce.

Bla .i. gno bla crich incoirce dumae no bun nomna, no dumae crainn; adrugudter cricha frifin.

[1] *Shall thrust in the stick.* The Irish may also mean, "Shall cast a lot."

[2] *Disturbed.* The text must be defective here.

Question—What settles the stake? An oath and prescription.

Question—What is prescription? The sticking of the fence thrice without denial. And if it be denied, by what oath shall it be settled? An oath of a worthy antiquary to be a witness of the fencing. And if there should not be an antiquary, two worthy 'bo-aire'-chiefs shall thrust in the stick,[1] and the one shall take his oath, and the 'airè'-chief who swears between two is he who shall thrust in the stake then.

And if the whole territory be divided into seven parts so that they (*the antiquaries*) cannot direct them? Answer—For there are the twelve marks by which a boundary is defined.

What are these? Answer—A flat mark, a stone mark, a tree mark, a deer mark, a stock mark, and a mound mark, a division mark, and a water mark, an eye mark, a defect mark, a way mark, a mound mark.

A flat mark: this is a land which is not distinguished by any land mark, and which antiquaries cannot define.

Question—How is it settled? It is measured into two, into the possession of those around it. If there be two 'coarbs,' they divide it first.

A stone mark: *i.e.* a district which is marked by a stone of worship, or, an immovable stone, or a tree, or a flag, or a monumental stone. If there be seven land marks of them therein at that time, one over the other, it is a boundary that cannot be disturbed.[2]

A wood mark: this is a district which is marked by an ancient tree or a tree mark, the one *with* the other, or an 'all bog' tree, or ancient oak[3] which was allowed to fall. The boundaries are defined by these, unless there be antiquaries to instruct as to the certain thing.

A deer mark: that is a district marked by the hair of deer or of dry cows in a wood or in a plain. These determine meers, unless the antiquaries remove them, for these are meers of a territory.

A stock mark: i.e. this is a district marked by the first trunks of trees, or a stake in the earth on the ruin of a mill, or an old bridge under the water. These are land marks which define, unless there be some other thing to explain.

A mound mark: i.e. a district marked by a mound or trunk of an oak, or mound of a tree; meers are defined by these.

[3] *Ancient oak.* See Welsh Laws, p. 373, for meer-timber.

JUDGMENTS OF CO-TENANCY.

Lino bla, .i. cpiċ incoipce uipce aba no loċa no tiprait. Atpuigaiotep cpiċa popprin ma tipeaċ an inour tiapba.

Roḋapc bla .i. cpiċ incoipce comapba peaḋa no muiġe, cpainn no liaġ, no comapba talman. Ipi cpic do mídigeap popc, ocup atpuigaiotep cpiċe fpipin, ma po feipeap in da aiġe deipba bidé iman painn pin.

Bla earbaiḋe; cpich incoipce earbaiġ talman .i. pan, no peipc, no tail gleann, no laṫpaċ pean poda. Condiplċeap cpiċa fpipin donn, madia ppebad peancaide.

Bla impoġla; cpiċ do teid uipce glaipe aipm po leanad in da comapba im da biad por ceċtar in da leithe. Atpuigaiḋtep cpiċa por pin.

Bla peime; cpiċ pon incoipce pod pig no tuaiṫe, no pod impeagna, no boċap. Ip bla cpiċi ann pin.

Clad bla; cpiċ pon incoipce duae, na upclaide, no pad, no peapt, no pecib duae; ap ipi cpiċ ann pin na ṙoan do dubiup, cpiċ incoipce clad no copa. *Sic.*

Atpuidiġtep cpiċa tpa popp na haibíreo; ocup panna an aili ocup polongad caithgi an aili iapum.

Caiṫge tipe tpa .i. fuga ocup puga ap macaib tipe ocup loingpeaċaib, ocup copup fri tuaiṫ, itip gloigeaḋ ocup congbail, ocup poga. *Sic.*

Caithge paite .i. ime fpip a aenup, ocup a glaige ocup a nupcapdaḋ, ocup a cocladḋ ocup gland a ngpeallach an aimpip cua ocup aenaiġ, ocup doig ap am puilid do cać cobaip apaili. Ni dupli caiṫge do punn, dupli pomaine.

Somaine aile; a topad do neoċ do pala dé itip, ocup tipe ap upba.

Cair—co tipeanap pon? Nin; uan molt i cuailli do tírcail ap tail, uan boinind ana dó, dapdaiġ ana tpi cona ninḋaiġ; daipt ina ceaṫair, colpaċ ap a pe, bo ana hoċt, cuic peoit ana do déc; aċt ío peoit gabla ada commeid, mad fri neiṫe fopeipeap, ocup aithgin an aile do ime inḋpíc, ocup beiṫ fo padup co ceann mbliadna.

[1] *The eye.* The eye fixes the boundary, if two points of it remain, i.e. by running a straight line between these points.

[2] *Are wanting.* The letter which Dr. O'Donovan read as 'p' in the word 'ppebad,' seems the usual form of long i which precedes 'p' when that letter is doubled.

[3] *Roads.* For the different kinds of road among the ancient Irish, *vide* Cormac's Glossary, edited by Whittey Stokes, Esq.; also C. 806–7, and Book of Rights, pp. lvi., *et seq.*, Dublin, 1847. For rules as to the penalties incurred by persons injuring roads, *vide* Ancient Laws of Ireland, vol. iii., pp. 305, 307, 309.

A water mark: i.e. a district defined by the water of a river, or of a lake, or of a well. Boundaries are defined by these if they run in a straight direction.

An eye mark: i.e. a district defined by a mark of wood or of plain, of tree or of stone, or by a mark of earth. This is the district estimated by the eye[1], and boundaries are defined by these, if the two certain heads which are to this division be known.

A defect mark: *i.e.* a district defined by want of land, i.e. a declivity, or a sedgy place, or stony vale, or track of an old road. Boundaries are defined by these, if antiquaries are wanting.[2]

A mark of division: *that is* a district through which the water of a streamlet flows where the two 'coarbs' follow it, they being on either side of it. Boundaries are settled by this.

A way mark: that is a district marked by the road of a king or a people, or a road of carriage, or a cow-road. These are district marks.

A mound mark: this is a district marked by a mound, or ditch, or rath, or foss, or any mound whatever; for this is the *kind of* district into which it is not proper to enter, *namely*, a district bounded by a ditch or stone wall.

Boundaries are settled by these kinds *of land marks;* and they divide the stakes and sustain the fines for stakes afterwards.

The liabilities of land now, i.e. service of attack and defence against wolves and pirates, and *attendance to* the law of the territory, both as to the hosting and feeding, and service of defence.

The liabilities as regards roads,[3] i.e. a fence *is required* for it alone, and *it is necessary* to cut them and cleanse them, and remove their weeds and mire in the time of war and of a fair, and because it is expected that each should assist the other. He (*the owner of the road*) does not deserve damages from that, *but* he merits profits.

The profits of stakes are; the produce which comes of them in the land, and the 'dire'-fine for cutting them.

Question—How is this paid for? Answer: a wether lamb for removing a stake from its place, a she lamb for two, a 'dartaigh'-heifer for three stakes with their appendages; a 'dairt'-heifer for four, a 'colpach'-heifer for six, a cow for eight, five 'seds' for twelve; but they are 'seds' of graduation of the same value, if it be known that they belonged to a dignitary, and a restoration of the stakes to a perfect fence, and to be security *for its safety* to the end of a year.

JUDGMENTS OF CO-TENANCY.

Somaine tire; itir fid, ocus fer, ocus innaid, ocus uisce, ocus muir, ocus inbéar, ocus tarcar, ocus fricc Fri.

Somaine raite; itire ocus a rith ocus aigid; ceithora bu rannad.

C. 31. [Caithi cethra tra; tri caithe fil do ruidib .i. caithe a ningine, ocus caithe a nadairce, ocus caithe a mbel; caithe a ningne do neoch conscara, ocus conclaid, ocus slaite; caithe a nadairce do nech guidhe, ocus conscarad; caithe a mbel do neoch gaibes do seruib na comaigtech.

Co midedar tra na caithe so, ocus co heraineter? Berthar comaigthech innraic do mes na fogla, ocus forcertar fer fola [1] riarraib na comaigthech tar a eis. Ma fer fola [1] a fola la fear no no da nois ocus fer uaid i taeb airchinn bera siu in fer noisgis. Muna be fer, gabthes diablad fochraice uad daig, no arbaim, amail bis mes in feóil in famfuch fa i ngemfuch.

Duine caithe tra .i. imfedain tar tír do cele .i. araig, ocus aitreb, ocus follscuch, ocus fothla, ocus an, ocus airegiu.]

Cais—cad iad duinecaithe? .i. beim feda, eidir airig feada ocus athaig feada, ocus fogla feada, ocus losa feada.

Airig feada: dair, coll, cuileand, ibur, iundiur, ochtach, aball. Cuic feoit a ndire each ae; do buinbeime, colpach ina ngabladb, daire ina craebaib.

Athaig feada: fernn, rail, sceith, caertand, beithe, leam, idha. Do a ndire each ae; daire ina craebu.

Fogla feada: draigean, trom, feorur, fincoll, crithach, caithne, crand fir. Daire a ndire cach ae.

[1] *Their joints.* There is some defect in the MS. here.

[2] *Birch.*—'Beithe' is found in some ancient glossaries as a gloss on 'Buxus,' the Box-tree. It is now applied only to the 'Birch.'

[3] *Idha.* Dr. O'Donovan does not give an English equivalent for this term. Prof. O'Curry suggests 'Palm.' It is, under the form 'Iodha,' commonly trans-

The profits of the land *are: every produce which it bears,* both wood, and grass, and herbs, and water, and sea, and harbour, and what the sea casts ashore, and waifs, &c.

The profits of roads *are:* their 'dire'-fines, their strays, their joints;[1] four cows they share.

The trespasses of cattle, now; there are three trespasses by them, i.e. the trespasses of their nails, and the trespasses of their horns, and the trespasses of their mouths; the trespasses of their nails by separating, and tearing, and plundering; the trespasses of their horns by goring and tearing; the trespasses of their mouths by what they eat of the grass of the neighbours (*co-tenants*).

How now are these trespasses estimated, and how are they paid for? A worthy neighbour is brought to appraise the trespass, and grass of equal value is *given* at the decision of the neighbours. If the man who has committed the trespass has grass of equal value, let him give grass in the side or head of a field to the amount of the grass which he has plundered. If he has not grass, let double the hire be given by him afterwards, or produce, according to the appraisement of the grass in the hot or in the cold season.

As to the man trespasses, now, i.e. passing over thy neighbour's land, i.e., ploughing, and residing, and burning, and casting him out, and driving, and examining.

Question—What are the man trespasses? Cutting trees, both chieftain trees and common trees, and shrub trees, and bramble trees.

The chieftain trees *are;* oak, hazel, holly, yew, ash, pine, apple. There are five 'seds' for the 'dire'-fine of each; a cow for cutting their trunks, a 'colpach'-heifer *fine* for their arms, a 'dairt'-heifer for their branches.

The common trees *are;* alder, willow, hawthorn, mountain ash, birch,[2] elm, 'idha.'[3] A cow is the 'dire'-fine for each; a 'dairt'-heifer for their branches.

The shrub trees *are;* blackthorn, elder, spindle tree, white hazel, aspen, arbutus, test-tree.[4] A 'dairt'-heifer is the 'dire'-fine for each.

lated 'yew,' but that tree is named before as 'Ibur.' It may be a species of pine. The translations given for 'ꝑeoꝛuꝝ,' 'cꝛann ꝛiꝛ,' and 'ꝛaiꝺ,' are only conjectural.

[4] *Test-tree.*—Some tree probably from which lots were made.

JUDGMENTS OF CO-TENANCY.

Lora fesda; raith, raith, aitean, srus, fraech, eidean, gilcach, fín. Cura a ndire cach ae.

Cair cad iad duinecaithe? .i. comaircim cad iat na cinta do níat na daine fur in fesann ín a écmais fin. Beim fesa .i. tesgad in fesa co himdligdech. Ochtaé .i. in crann giuis. Cuic feoit .i. da tecait da ba. Do buin-beime .i. ina naithgin. Colpach .i. oét fesepall ín aithgin. Dairt .i. ceithi fesipall .i. ar feised. Do a ndire cach ae .i. ocus ní duc a naithgin ar airm. Dairt .i. ceithi fesepall i ndiri gabal na fosla .i. ar colpaé fe fesepall, ocus is dire ar aithgin .i. ho is ar famairc. Eidean .i. leth diri craeb in cuilind is é lan diri bun-beime in eigind; no leth diri gabal in cuilind is é lan diri bun beime in eigind. Cura .i. thi fesipall, no ber siu da fesearall ina dire.

.i. Beim fesda no a lomrad, do ranar cach na o diri .i. aithgin indric ineich no bronntar dé, ocus cuic feoit ina dire. Acht ní comsruith cach frith frí araili; ar itait fecht naisig fesda, ocus fecht naithig fesda, ocus fect fogla fesda, ocus fecht lora fesda, ocus arain dire cach ae.

Airig fesda; dair, coll, cuilenn, iundius, ibar, octaé, aball. Dire ndarad; bo feiche i coisigead da ban ara, ocus dam feiche i coisigead da fer ara, ocus a fothad co ndeiorc a slaine .i. uir minn ocus bocor ocus lemlacht naire co tiagad da mer tair in cnecht; acht leth do beit fair gorab slan. A mbun-beim, bo ind, ocus cuic feoit a dire. Colpach ina mor gabla, no ina dairbri bega, dairt ina craebaib. Is amne dire cach airig fesa dib.

Dair; cid dombeir naisechus hi? Min—A mear ocus a saire;

[1] *A sixth.* A cow was worth 24 'screpalls,' and the young heifer called a 'dairt,' was the sixth of the value of this cow.

[2] *A cow-hide.* Dr. O'Donovan remarks on this. The original is certainly incorrect here. It should be, "For the barking of the oak to the extent required for tanning a cow-hide, a pair of woman's shoes is the 'dire'-fine." See O'D. 1677.

The bramble trees *are;* fern, bog-myrtle, furze, briar, heath, ivy, broom, gooseberry. A sheep is the 'dire'-fine for each.

JUDGMENTS OF CO-TENANCY.

Question—What are the man trespasses? i.e. I ask what are the crimes which people commit as regards the land besides these *above mentioned.* Cutting trees, i.e. cutting the timber unlawfully. Pine, i.e. the fir-tree. Five 'seds,' i.e. which amount to two cows.[a] A cow for cutting their trunks, i.e. for compensation. A 'colpach'-heifer, i.e. of *the value of* eight 'screpalls' as compensation. A 'dairt'-heifer, i.e. of four 'screpalls,' i.e. for a sixth[1]. A cow is the 'dire'-fine for each, i.e. for he did not bring their compensation forward. A 'dairt'-heifer, i.e. of four 'screpalls' as 'dire'-fine for the branches of the bramble trees, i.e. for a 'colpach'-heifer of the value of six 'screpalls' and 'dire'-fine is *here put* for compensation, i.e. or it is for a 'samhaisc'-heifer. Ivy, i.e. half the 'dire'-fine of the branches of the holly is *equal to* the full 'dire'-fine for cutting the trunk of the ivy; or half the 'dire'-fine for the branches of the holly is the full 'dire'-fine for cutting the trunk of the ivy. A sheep, i.e. of *the value of* three 'screpalls,' or worth two 'screpalls' *is due* as its 'dire'-fine.

[a] Ir. *Of which come two cows.*

That is, for cutting of trees or stripping them, full 'dire'-fine is paid for each, i.e., a perfect compensation for the portion of them which is damaged, and five 'seds' as 'dire'-fine. But all trees are not equally noble; for there are seven chieftain trees, and seven common trees, and seven shrub trees, and seven bramble trees, and the 'dire'-fine for each is different.

The chieftain trees *are;* oak, hazel, holly, ash, yew, pine, apple. The 'dire'-fine of the oak: a cow-hide[2] *is due* for *stripping off it* the barking of a pair of woman's shoes[3]; and an ox-hide for the barking of a pair of men's shoes; and also to cover it until the test of its recovery[4] is had, i.e., smooth[5] clay and cow-dung and new milk are to be put upon it until they extend two fingers beyond the wound *on both sides,* and half-*fine* shall be for it until it is whole. For cutting the trunk a cow *is paid,* and five 'seds' are its 'dire'-fine. A 'colpach'-heifer *is the fine* for their great arms, or for their small oaklings, a 'dairt'-heifer for their branches. The 'dire'-fine of every chieftain tree of them is such *as we have now stated.*

Oak: what gives it dignity? Answer. Its acorns and its

[3] *A pair of woman's shoes.* That is, as much bark as would tan leather enough to make a pair of woman's shoes.

[4] *The test of its recovery.* That is, until it is secured against the effects of the weather.

[5] *Smooth.* The Irish word read as 'mmn' may be 'mmn,' the original being doubtful.

JUDGMENTS OF CO-TENANCY.

coll? a maes ocus a cael; aball? a meas ocus a rusc; ibar? a aigde raesa; cuilenn? fes fos araili inn sin, ocus feisse cairptid; uindiur? folad ocus rigliasda, ocus let arad airm. ochtach? a bi a tulca.

Athaig feada; fesn, fail, bede, lem, crithech, idad. cairtend. Do bunbuime cach ae, dairt ina ngabla, caesa ina craeba, cuic feoit ar earba.

Fodla feada; fceith, draigean, trom, feosus, crann fir, eidleann, fincoll. Colpach bunbeime cach ae; cuic feoit ar earba, ach draigean, do ranadar fainde cuic feoit .i. draigneach bis i fal eatarba do foirithear, no draigean cubra.

Losa feada; drus, aiteand, fraech, frin, gilcach, rait. Leacla i dilse an aen gair, ocus dairt ina nearba. Is amne do ranadar uili, ach a noilsi ocus frodilsi.

Dechbir crainn a fid comaitcesa, ocus can dechbir graid. Dechbir graid a fid neimhed, ocus cin dechbir crainn. Smacht a fid neimhed no co mbentar uile, ocus enechann ind o bentar.

Da ba ocus bo indlaeg ocus colpach ocht fcrepall tri dili na nairech feda. Lulgach ocus colpach ocht fcrepall ocus dairt ceithri fcrepall, a tri naithgina. Laigeb ocus colpach ocht fcrepall, ocus dairt ceithri fcrepall, tri dili na natheb feda. Samairc ocus dairt ceithri fcrepall, ocus dartaid da fcrepall a tri naithgena. Samairc ocus dairt ceithri fcrepall ocus dartaid da fcrepall, tri dili na fodla feda. Colpach fe fcrepall, ocus dartaid da fcrepall, ocus caesa fcripuill, a tri naithgena.

[1] *Noble structures.* That is, the highly prized pieces of furniture manufactured from it.

[2] *Fer for araili inn sin.* This phrase was left untranslated by Dr. O'Donovan. Professor O'Curry rendered it, "This is *the same as* inviolable grass"; a meaning which seems very doubtful. It may mean, "A man upon another in that," and refer to the use of holly sticks in fighting.

nobleness; hazel? its nuts and its wattles; apple? its fruit and its bark; yew? its noble structures[1]; holly? 'fer for araili inn sin,'[2] and the axle-trees of chariots *are made of it;* ash? supporting of a king's thigh, and half furniture of his arms. Pine? its being in the puncheon.

The common trees *are;* alder, willow, birch, elm, aspen, 'idhadh,' mountain ash. A cow *is the fine* for cutting the trunk of each, a 'dairt'-heifer for their arms, a sheep for their branches. Five 'seds' *is the fine* for their lopping.

The shrub trees *are;* whitethorn, blackthorn, elder, spindle-tree, test-tree, ivy,[3] white hazel. A 'colpach'-heifer *is the fine* for cutting the trunk of each; five 'seds' for their lopping, except the blackthorn, for which five 'seds' are paid, i.e. blackthorn which is in an unprofitable fence[4] (*broken down*) which is passed over, or sweet-smelling blackthorn.

The bramble trees *are;* briar, furze, heath, gooseberry, broom, fern. 'Leacla' is forfeited for one sprig, and a 'dairt'-heifer for their lopping. They are all thus paid for, except the right and the full right.

There is a difference of tree in a co-occupancy wood, without any difference of class. *There is* difference of class in a sacred wood, without difference of tree. *There is* 'smacht'-fine in a sacred wood until it is all cut down, and honour price *is paid* for it when it is cut.

Two cows and an in-calf cow and a 'colpach'-heifer *of the value* of eight 'screpalls' *are* the three 'dire'-fines of the chieftain trees. A milch cow and a 'colpach'-heifer of eight 'screpalls' *value* and a 'dairt'-heifer worth four 'screpalls,' *are* their three compensations. A milch cow and a 'colpach'-heifer of eight 'screpalls' *value* and a 'dairt'-heifer of four 'screpalls,' *are* the three 'dire'-fines of the common trees. A 'samhaisc'-heifer and a 'dairt'-heifer worth four 'screpalls,' and a 'dairtaidh'-heifer of two 'screpalls,' *are* their three compensations. A 'samhaisc'-heifer and a 'dairt'-heifer of four 'screpalls' *value*, and a 'dairtaidh'-heifer of two 'screpalls,' *are* the three 'dire'-fines of the shrub trees. A 'colpach'-heifer worth six 'screpalls,' and a 'dairtaidh'-heifer worth two 'screpalls,' and a sheep of *the value of* one 'screpall,' *are* their three compensations.

[3] *Ivy.* The Irish word here is 'eidleann,' whereas in the text before (line 2, p. 148) it is 'eideand.' Dr. O'Donovan regarded them as different forms of the same name; Professor O'Curry suggested 'woodbine' as the translation of 'eidleann.'

[4] *An unprofitable fence.* Fal eatarba may possibly mean 'a fence between cows,'

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Tri fesmuilli indtib itir aithgin ocus dire intib sin in tan is a sid comcheasa, ocus ni fil ní na ngablaib, srt. Mad a sid neme beide imurro, ceithri fesmuilli indteib air dire, ocus da fesell air aithgin, ocus a trian ina ngabla, ocus a ceiread ina chaebaib. Anar aithgin do airechaib feda igead is dire do athechaib feadha; a naithgin sin isseo is dire do foglaib feadha.

Aurba dire dona, idunacaide. Daitaig a tri cuaillí cona nindteach, daird ina cuic, colpach ana hocht, cuic feoit ana dodec, ocus aithgin la cach na; ocus beith fo cinaid na bernad co cend mbliadna.

Aurba dire dona .i. fíreibe in feraind dono. Idunacaide .i. is cinta dona daínib eiride. Daitaig .i. is fiu da fesell. Co na nindteach .i. cus aní is toich no is duthaig bis oslo a hinde, in cáelach. Daird ina cuic .i. ceithri fesadaill. Colpaċ .i. ocht fesadaill. Cuic feoit .i. da tecait da ba, .i. iar fut. Aithgin la cach na .i. aithgin in aile la caċ smaċt dib sin, ocus daine do brir ann sin he. Beith 'fo cinaid .i. cor foclat comaithig in airbe. Co cend mbliadna .i. ar in se co roib fer bunaid i naitiden a leraigthi.

O'D. 406. [Daitaig i tri cuaillib] .i. da fesell o murcoiti ina lulai; daird ceithri fesmuilli ina cuic .i. lulai in deoraid ocus medontai lai in urraid. Colpaċ ocht fesmuilli a medontai lai in deoraid, ocus bo indlaeg o urraid, ocus lulai in urraid, uair hoċt fesmuilli o urraid ina lulai, ocus bo indlaeg se fesell

[1] *Of its being repaired.* That is, acknowledges that it has been properly repaired.

[2] *Smallest offence*, i.e. cutting three stakes. Middle offence, i.e. cutting five or

Three 'screpalls' both for compensation and 'dire'-fine *are paid* for them when it is in a co-occupancy wood *they are*, and there is nothing for their large branches, &c. If, however, it be in a sacred wood they are, there are four 'screpalls' for them as 'dire'-fine, and two 'screpalls' as compensation, and its one-third for their arms, and its one-sixth for their branches. The compensation for the chieftain trees is *equal to* the 'dire'-fine of the common trees; and the compensation for them (*the common trees*) is *equal to* the 'dire'-fine of the shrub trees.

But cutting of land is man-trespass. A 'dartaigh'-heifer *is the fine* for three stakes with their appendages, a 'dairt'-heifer for five, a 'colpach'-heifer for eight, five 'seds' for twelve, and compensation for every one of them; and he (*the trespasser*) shall be accountable for the injury of the gap to the end of a year.

But cutting of land, i.e. but the real cutting of the land. Is man-trespass, i.e. this is trespasses by the people. A 'dairtaigh'-heifer *for three*, i.e. of the value of two 'screpalls.' With their appendages, i.e. with the thing which is natural or which is proper to be on them from the root, the slender twigs *placed across*. A 'dairt'-heifer for five, i.e. of four 'screpalls' *value*. A 'colpach'-heifer, i.e. of eight 'screpalls.' Five 'seds.,' i.e. which amount to two cows, i.e. altogether. Compensation for every one of them, i.e. the restitution of the stake fence with every 'smacht'-fine of these, and it was persons that broke it in this case. Shall be accountable, i.e. until neighbours (*co-tenants*) appraise the stakes. To the end of a year, i.e. until the time that the original proprietor admits that it has been repaired.[1]

A 'dairtaidh'-heifer *is due* for three stakes, i.e. two 'screpalls' *are to be paid* by a foreigner for the smallest injury;[2] a 'dairt'-heifer of four 'screpalls' *value* for five *stakes*, i.e. the small offence of the stranger is the same as[a] the middle offence of the native freeman. A 'colpach'-heifer worth eight 'screpalls' *is due* for the middle offence of the stranger, and an in-calf cow from a native freeman, and it is a small offence of the native freeman, because the middle offence of the stranger is the same as[a] the small offence of the native freeman, for eight 'screpalls' *are due* from the native freeman for his small offence, and an in-calf cow worth sixteen 'screpalls' for his middle

[a] Ir. *And.*

eight stakes. Greatest or highest offence or trespass, i.e. cutting twelve stakes, and making by so doing a full gap in the fence.

Judgments of Co-Tenancy.

dec ina medonthai lai, ocus bo indlaeg o deoraid ina cleithi lai; cuic feoit da tecaid da ba orrad ina cleithi lai.

O'D. 406.

[Cia o fuil in eiricc so, ocus cinnus so fegad in da fresbull ir na tri cuaillib? .i. diar dg murchurtaib leth cuinn ocus leith ceille, fresbull uathuib in da cuaille dib .i. leith fresbull o cach fiur dib .i. aon murcurtha codnaig ocus fresbull uad irin thes cuaille .i. diar do murchurtha leth cuinn ocus leith ceille ann, ocus fresbull uatha in da cuaille, ocus triar do murchurta codnuig, fresbull o cach fir dib in cach cuaille do na tri cuaillib eile .i. ocht murcurtha codnaig and, ocus ocht fresbuill uatha ir na hocht cuaillib.]

Atá orba nad aclaidead; aurba neigne fria flog, fria lonaib, fria flaithaib cia bodé.

Atá orba nad aclaidead, .i. atá firebeda do berar ar in ferann, ocus noco tabar aclaide fiach ar in ti do ní iat. Aurba neigne, .i. brised ar eicin fesin flog, .i. fos teiced se flog. Ria lonaib, .i. na flog irin. Ria flaithaib, .i. riar na flaithib, cibe flaithe iat, mana uariatur conair aile.

Atá aurba ceana nad aclaidead: aurba nimfeadna fairre muilind, no duirthige, no membra, no fairre duini fig. Adcomaicar uile, arus fean farac la feine, no liancur gach guide; urba fria collaib, fria nailaicraib. Duntar cach norba.

Atá aurba ceana, .i. atá firebeda cena cenmoda fin, ocus noco tabrat aclaidi fiach ar in ti do ni iat. Aurba nimfeadna, .i. in firebe do nitar fesin neimfedain do berar ar amus in muilind in tan bitar ac denam a fairre. Duirthige, .i. moir. Membra, .i. bicc. Sairre duini fig, .i. in tan bitar ac a denam. Adcomaicar uile, .i. iarfaigtir uile cach ni dib fin orir in feraind, .i. airiaracht cen dunad, no dunad cen airiaracht.

[1] *Cuttings.* That is, breaches, or gaps.

JUDGMENTS OF CO-TENANCY.

offence, and an in-calf cow from the stranger for his highest offence; five 'seds' which amount to two cows *are due* from a native freeman for his highest offence.

By whom is this 'eric'-fine *paid*, and how do the two 'screpalls' proceed from the three stakes? i.e. two of the foreigners being of half sense and half reason pay[a] a 'screpall'[a] for two of those stakes, i.e. half a 'screpall' from each man of them, i.e. one sound-minded foreigner who pays a 'screpall' for the third stake, i.e. two foreigners of half sense and half reason in this case, and a 'screpall' *is paid* by them for the two stakes, and three sound-minded foreigners, every man of them pays a 'screpall' for every stake of the other three stakes, i.e. *there are* eight sound-minded foreigners in this case,[b] and eight 'screpalls' *are paid* by them for the eight stakes.

[a] Ir. *From them.*

[b] Ir. *In it.*

There are cuttings[1] which are not sued for; a forcible cutting before a host, before provisions, before chieftains of any kind.

There are cuttings which are not sued for, i.e. there are real cuttings which are made in the land, and fines are not sued upon the person who makes them. A forcible cutting, i.e. a forcible breach before the host, i.e. in flying before a host. Before provisions, i.e. of these hosts. Before chieftains, i.e. before the chieftains, whatever chieftains they be, if they had found no other passage.

There are cuttings also which are not sued for; a cutting for carriage at the construction of a mill, or of an oratory, or of a shrine, or at the building of a king's 'dun'-fort. Leave is asked about them all, for it is an old maxim with the Feini, "for every supplication is pleasant"; a cutting before bodies, before pilgrims. Let every breach be closed.[2]

There are cuttings also, i.e. there are real cuttings also besides these, and they bring no claim of debts upon the person who makes them. A cutting for carriage, &c., i.e. the real cuttings which are made by the carriage of *things brought* towards the mill when the construction of it is being made. Of an oratory, i.e. of a large *one*. Of a shrine, i.e. of a small *one*. The building of a king's 'dun'-fort, i.e. when it is being done. Leave is asked about them all, i.e. *permission to do* every thing of these is asked for of the owner of the land, i.e. consent without closing, or closing without consent.

[2] *Be closed.* Or, let every gap or breach be closed, or every breach is to be closed.

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Is cetramtha in dartada no na dairti ind sil, a cetar de. Mad cen airiaracht, cen dunad, is let. Ma ro ercertar, ocus ni comarleictear do, isslan dia ndona, mana duna, is cethramtha.

Arus fedan faraċ la feine, .i. ar is fencindet oc do fein in fenechair, .i. is cethramtain dartada, no na dairti ind. No liancur, .i. ailgen, .i. is liancair cairesi he o beithir acca guidi. Urba ria collaib, .i. na marb, mana fagbad conair aile. Ria nailaichraib, .i. fer in lucht teit ina ailithri. Duntar cach norba .i. duntar cach fidbeirid dib fein, uair mana dentar noco slan.

Dia natcomarcar in tan orlaicter fri deithbirer, ocus duntar fon indus cetna, isslan do. Ma ro dunad, ocus is meru andar amuil ro bui, a ndigaib airi in droch ime ictar uadrum. Mani ro dun itir, ictar smacht na oirgne uad. Mana atcomarctar itir, ocus duntar amuil ro bui, isslan do. Mara olc, icad smacht oirgne tairre. Muna duna itir, icad smacht na oirgne, ocus let cuic feoit, ar ni athcomarc.

Comicheach dono bir itir da tir dligid lan imirce; bid feirear umpu, triar o fir tire, ocus araili o fir imirce.

Cuic feoit anain ocus atain, ma dichmairc, acht ain eigne; ni haclaide ain bo do tarb.

Comicheach dono bir itir da tir, .i. itir da ferand, in tir o na bi rot .i. uair noco ndiuil conair aici fein. Dligid lan imirce, .i. do lecud do. O fir tire, .i. o fir in ferainn. Araili, .i. ar in comlin biar ó fir bunaid ina ndegaid .i. uair noco niuil conair aici fein, ocus isslan do cach fogail do dena fir na comaitcib, amuil comrith nairme.

.i. Acta annad aclaid dligear cach comaitheach dia raile .i. tir cen beola, cen rot, cen bothar; dligid lanimirce tar cach tir a comitach ber nearam do, acht isfed indar na dlig, ferar uimpe,

[1] *Road.* Or unless another road could be found.

[2] *No road.* In O'D. 407, it is called a district, "cin doin cin beolu," "without an opening at the front or the rear."

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It is the fourth of the 'dartaidh'-heifer or of the 'dairt'-heifer *that is due* for it, &c., for either of them. If without consent, without closing, it (*the fine*) is one-half. If he has given consent, and that he has not advised him to it, it (*the penalty*) is full fine if he closes, if he does not close *the gap*, it is one-fourth.

For it is an old maxim with the Feini, i.e. for it is a perfect old decision according to the 'Feinechas'-law, i.e. it (*the fine*) is a fourth of the 'dartaidh'-heifer, or of the 'dairt'-heifer for it. Supplication, i.e. clement, i.e. he is the more clement for being supplicated. A cutting before bodies, i.e. of the dead, unless they find another road.[1] Before pilgrims, i.e. before the people who go on a pilgrimage. Let every cutting be closed, i.e. every true cutting of these is closed, for unless it is done (*closed*) it (*the act*) is not guiltless.

If leave be asked, when it is breached[a] with necessity, and it is closed in the same way, it is guiltless. If it has been closed, and it is worse than it was *at first*, the damage done in consequence of the bad fence is paid by him. If it has not been closed at all, the 'smacht'-fine of the damage is paid for. If permission has not been asked at all, and it is closed as it had stood before,[b] it is guiltless. If it be badly *done*, he shall pay fine for the damage done by it.[c] If it be not closed at all, he shall pay the 'smacht'-fine of the damage, and half five 'seds', for he did not ask leave.

[a] Ir. *Opened.*

[b] Ir. *As it was.*

[c] Ir. *Over it.*

A co-tenant who is between two lands is entitled to full passage; six persons are *to be* about them (*the cattle*), three from the owner of the land, and *three* others from the man of the passage.

Five 'seds' *are payable* for driving in and out, if without asking *leave*, except in *case of* forcible driving; the driving of a cow to a bull is not sued for.

A co-tenant who is between two lands, i.e. between two farms, *i.e. in* the land from which there is no road,[2] i.e. for he has no passage himself. Is entitled to full passage, i.e. to be ceded to him. From the owner of the land, i.e. the owner of the farm. Others, i.e. for the proprietor shall have an equal number after (*minding*) them, i.e. for he (*the co-tenant*) has not a passage himself, and he is not amenable for any trespass which he may commit against the neighbours, as running of the *whole* stock *or drove*.

There is one stay which every co-tenant is entitled to from the other, i.e. *in* a land without an opening, without a road, without a way; he (*the tenant*) is entitled to full passage over every co-tenant's land that is next him, but the manner in which he is bound *to pass* is, *with* six persons about him, three persons

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triar o fir tire, ocus triar o fir imirce dia ndlutad fri felmad, ar na foleatad fon tir. Dia mbe bodar dc, do follaigear faide; dia mbed da clad ime, no dí coraid, adguitear leo ar ad fiadain annsin. Is de asrubrad, bradaid fiadain; muna bed acht don doinnsann ní himtecar la fuidaib; is de asrubrad, ní bratad fiadain.

Cuic feoit anain, .i. inund .i. ind. Atain, .i. imach, .i. ar. Ma dichmairc, .i. ní uair conair aili, no ní coemnacair gabail ime. Acht ain eigne, .i. uair isan eisidi. Ain bo do tarb, .i. cuic feoit da decait da ba inain, ocus is tar lan ime, ocus leth in fein mana be ime Ma dar let, is teora cethramta na da bo. Má dar lan ime in athlumnar. is bo. Ma dar let ime, is teora cethramta na bo; mad cen ime itir, isamaisc.

O'D. 407. *Sic.*

.i. [Tir cin doin cin beolu bis itir da fesunn cin conair. Ma tir fecht cumulu, daisitt cacha treimse ar conuir doib dia ninnilib. Ma tir cumuile, no tri cumulu, is on cinn bliadna co naill beos. Mad aon conuir, is molt cacha treisi, ocus is tir da fecht cumula isodain; ma tir da cumul imusiro, no tri cumulu, is isin cethrumad bliadain, ocus is do ectus fine ata uile. In tan is do fine, is ann is trian o fir tire, ocus araili o fer imesce, ocus munu tasdosom sin, isan do a breith taisis; no dono, na fogla do denuit chenu cen icc.

Finit don comaithe.

JUDGMENTS OF CO-TENANCY.

from the owner of the land, and three persons from the man who seeks the passage *shall attend* to keep them (*the cattle*) close to the fence, in order that they may not spread over the land. If he has a way, this may be omitted; if there be two mounds to it, or two stone walls, he is restrained by them for they are *a kind of* witnesses. From this it was said, "the witnesses are not to be removed;" unless they are but of the one side, they shall not be passed; and from this was said, "the witnesses are not to be removed."[1]

Five 'seds' for driving in, i.e. over, i.e. into it. Out, i.e. out of it, i.e. from it. If without asking *leave*, i.e. he did not find another passage, or he was not able to pass along it. Except forcible driving, i.e. for that is guiltless. The driving of a cow to a bull, i.e. five 'seds' which amount to two cows for this driving in, and it is over a full fence, and the one-half for the same if there be not a fence. If it be over a half *fence*, it (*the fine*) is three quarters of the two cows. If over a full fence into bare grass, it is a cow. If over a half fence, it (*the fine*) is three quarters of the cow; if there be no fence at all[a] it is a 'samhaisc'-heifer.

[a] Ir. *Without fence.*

This is a land without egress or ingress, which is between two lands without a passage. If it be a land of seven 'cumhals,' there is a 'dairt'-heifer every season *due* for allowing them a passage for their cattle. If it be a land of one 'cumhal,' or *a land* of three 'cumhals,' it is from one end of the year to the other. If it be one passage, it is a wether every third year *that is due*, and it is a land of twice seven 'cumhals' in that case; but if it be a land of two 'cumhals,' or of three 'cumhals,' it is in the fourth year, and all this is by (*in the case of*) an outside family. When it is by (*in the case of*) the family, then it is one-third from the owner of the land, and another *third* from the man of the passage, and if he does not concede this (*right of way*), it is guiltless for him (*the owner of the cattle*) to bring them over it; or, *according to others*, he is to pay the damage which they may commit *on the occasion*.

[1] *To be removed.* The original is defective here.

Ends *the subject* of the co-tenancy.

bech bretha.

BEE-JUDGMENTS.

bech brethach.

Bee-Judgments.

Annsom hi tairsillib tairsille ar bechaib; aitirde tairsille naisib tar tir ber da nerom cach leth, cia pa meit cia pa laigset; ar is a tairsillib bertais a mbrethe a dtairsce, a ccinaid, a lloige ar cethardoit tire ber da nerom, dlegait feirde deolaith doib de a loigib iar naimderaib fuire.

Annsom .i. annsa em .i. doilig. Hi tausillib .i. is do na gaillaib torsitneacha is i suilgi do neach isar se gaill torsitneach da bein se dar ceand na meach .i. gaill da fesdball. Aitirde .i. airilitnigid feisirde gaill torsitneach orsro, gid annsa, .i. gaill da fesdball. Tar tir .i. do lucht na feadand is neasu doib do gach leith, fria da taeb ocus fria da naisceann in tire. Cia pa meit .i. gid beg gid mor he .i. in feadand no na beich. Ar is a tairsillib .i. uair is ar tabairt gill torsitnig dar a ceand berar breithemnar orsro. A dtaisrce .i. im an gleith. A ccinaid .i. im an caechad. A lloige .i. im an faithe. Ar cethardoit .i. do lucht na ceathra feadand is neasu doib i mun doid. Dlegait .i. dleagaid fride log doib ar in deolaid no log deolaid doib cin log acht fomelt. Iar naimderaib fuire .i. iasr an fre futhain imid beith i faeire.

[1] *Two* '*screpalls*.' The following note on 'Cain Cuisc' is found at the bottom of p. 21 of the MS. H. 2, 15.

"Geill da fesdball fri diguin ocus ni uil fri tursabail, ar ni heigen ime riu gia da neo fogla comaithgera, ocus ni hiad na gailla fo doiter and, acht cain cuirg ocus mian galair ocus ollabruig nai re re tri mbliadan; no dan, is e gaill is doir and is cutruma fair in cain cuirc .i. fmacht comaithchiura do rith riu iar tabairt na ngaill fo amail ceathra eile; no gumad i in cain cuirg ocus mian galair ocus ollabruig nai; ocus a tabairt a triur du gach tir, no gu na tucha acht einni dib do gach tir ocus gid mor da fhallsachaib beas in gach tir nuchu dleagair acht in cutruma rin doib uile re re na tri mbliadan; ocus in cesuine rig a lear is an crich is a breith deo, ocus gid fochaidi ita ina riachtanar a lear is an crich a neineacht, no go nuil acht in cutruma rin doib uile.

There is a pledge of two 'screpalls' for meadow and there is not for raising *a*

BEE-JUDGMENTS.

AMONG additional pledges an additional pledge for bees is difficult; additional pledge is required for them that they pass not beyond the land which is nearest to them on every side, whether it be much or little; for it is according to the additional pledges that judgments are passed respecting their 'tairsce'-trespass, their crime, their produce, in the four lands which are nearest to them, *for* these are entitled to a share of their produce gratis after the periods of their exemption.

It is difficult, i.e., 'annsa em,' i.e. difficult. Among additional pledges, i.e., of all the relieving pledges which one pays, the most difficult is the relieving pledge which he gives for the bees, i.e. a pledge of two 'screpalls.'[1] Is required, i.e., that demands a relieving-pledge for them, though difficult i.e. a pledge of two 'screpalls.' Beyond the land, i.e. to the owners of the lands which are nearest to them on each side, at both sides and both ends of the land. Whether it be much, i.e. whether it be big or little, i.e. the land, or the bees. For it is according to the additional pledges, i.e. for it is upon giving the relieving pledge for them that judgment is passed on them. Their 'tairsce'-trespass, i.e. with respect to the feeding. Their crime, i.e. with respect to the blinding *of men or beasts*. Their produce, i.e. with respect to the swarming. In the four lands, i.e. for the people of the four lands which are next hand to them. Are entitled, i.e. these are entitled to get value for their 'deolaidh'-right or the value of 'deolaidh'-right is due to them without any price except consuming. After the periods of their exemption, i.e. after the particular time during which bees are in freedom (*exempt from fines*).

fence, for no fence can be put against them though they may commit trespasses of co-tenancy, and these are not the pledges that are forfeited therein, but the 'Cain Cuisc,' 'the longing of disease' and the 'ollabruig nai' for a period of three years; or, the pledge that is right here is one equal to the 'Cain Cuisc,' i.e. that 'smacht-fines of co-tenancy' should accumulate upon them after giving these pledges for them as well as for other animals; or, the 'Cain Cuisc,' 'the longing of disease' and 'olla-bruig nai;' and that the three should be given to every land, or that only one of them should be given to every land, and that though great may be the number *of land-holders* in each land, only this proportion is due to them all during the period of three years; and the first person who stands in need of them in the land is to get it, and though many in the land should stand in need of it at the same time, they can get only this proportion."

Bee-Judgments.

Ar dlegait beich .iii. bliadan fuiri, cire lar naidgenetar; bliadain a tuirten, bliadain a feoil, bliadain a fil. Ni dlegait in cetardoit fin ni doib acht a chain cuirc, na allabrig naie, no miann ngalair, co teora bliadan a fuiri, cire lar a naithgenitir, ar o tha na teora bliadna fuiri fin, ir for find oirrgne focerr na fmachta fo. Nochi acht fa foig ind oirrngne, an fo faig bo co etrud for ingil, fo faig in bech oc tecclamad a thoraid. O ta na teora bliadna, dlegait in cethardoit fin tire ber da nerrom deolaid doib; ailit a faithib a cobdailib cruch, ar in fulaing nech deolaid deolaid dia lailiu la Feine; ar ir trirrintiu in fo confodlaiter fo chobdaili cruch.

Ar dlegait beich .i. uair dleagaid beic beith re re tri mbliadan i faire. Cire lar naidgenetar .i. cibe lair i ngeinend fiad gu ait no gu eadg. Bliadain .i. in bliadain i tuirtgend fiad .i. in ced bliadain fin. Bliadain a feoil .i. bliadain i mi fuaill doib, in bliadain tanaire. Bliadain a fil .i. in bliadain a filand fiad, ir an trear bliadain. Ni dlegait in cetardoit fin .i. no go dleagaid.

[1] *Their breeding.*—The age of the bee is estimated by German apiarians as one year, but Huish shows that a queen-bee lives sometimes four years. See *Huish*, "Nature, Economy, and Practical Management of Bees," 2nd edition, London, 1817, pp. 246, 248, 249.

[2] *According to the division of the land.*—Dr. O'Donovan remarks here:—

"From these texts and glosses it appears that the person who reared bees, was obliged after the third year to share their honey with the neighbours who resided in the four townlands lying around him in every direction, that during the first three years some of the honey was due to sick persons and to certain dignitaries, as an 'ollave'-poet, a bishop, a professor of literature, &c., who may live within or happen to be on a visit in any of the four townlands which were entitled to the produce of the bees.

The quantity of honey to be given out for these three classes of persons was proportioned to that produced by the bees. If the produce of the bees amounted to the full of a 'milch-cow vessel,' i.e. a vessel which when full a man of ordinary strength could raise to the height of his knee, they shall get half the full of an 'escra,' if they produce the full of a 'samhaisc'-heifer vessel, which a

For bees are entitled to three years' exemption, with whomsoever they are produced: the year of their production, the year when they are few, the year of their breeding.[1] *The people of* these four lands are not entitled to anything but according to the 'Cain Cuisc,' or 'allabrig naie,' or 'the longing of disease,' until the end of the three years of their exemption, with whomsoever they are produced, for from these three years of exemption out, it is according to the injury that these 'smacht'-fines are imposed. It is only as the injury requires, *for* as long as the cow requires grazing until milking time, so long does the bee require to gather its produce. From the three years out, the four lands that are next them are entitled to get a gratis *share*, they are entitled to *a share* of the swarms according to the divisions of the land, for no one *entitled to* a gratuity is liable to a gratuity to another with the Feini; for this is the third tribe-property which is divided according to the divisions of the lands.[2]

For bees are entitled, i.e. for *the owners of* bees are entitled to be a period of three years in exemption. With whomsoever they are produced, i.e. with whomsoever they are generated quickly or lawfully. The year *of their production*, i.e. the year in which they generate, i.e. the first year. The year when they are few, i.e. the year in which there are but few of them, i.e. the second year. The year of their breeding, i.e. the year in which they breed,[3] the third year. *The people of* the four lands, i.e. the people of

man can raise to his navel, they shall get one-third of an 'escra;' if they produce the full of a 'colpthac'-heifer vessel, which a man can raise as high as his loins, they shall get one-fourth of an 'escra,' if they produce a 'dairt'-heifer vessel, which a man can raise over his head, they shall get the one-fifth of an 'escra.'

[3] *The year in which they breed, the third year.* On this Dr. O'Donovan observes:—It is difficult now to determine what induced the author of this law to suppose that bees were three years old when they began to breed. The age of the bee is estimated by the German apiarians at one year, and they hold it as undoubted that the queen of the present year is not to be found in the hive the following year. The age of the common bee is estimated at one year, or one year and a half. But Huish shows that a queen-bee sometimes lives four years, and cites various writers who assert that they have seen hives which were ten, fifteen, and thirty years old; but he remarks that "it must not be supposed that in fixing the duration of a hive at fifteen or twenty

Bee-Judgments.

luċt na ceaṫra fearann grin bir imon doib ní eile doib. Acht a chain cuirc .i. act riaġail na dighe cuirg .i. in ní artuigfa, ocus ní cindeḋ fil ufe, no go maḋ leithercha i lerthar lulaici. Leithercha doib a lérthar. lulaice tuarġaib fear go glun; trian ercha a learthar famairce tuarġaib fear go imlinn; ceathrama ercha a lerthar colptaige tuarġaiḃ fear go ara; cuicéad eargna a learthar dairte tuarġaib fear or a chinn. Na aillabrig naie .i. daeṫain tairig na daime, .i. no in ní da berar don ti ar oillbrig bir um anai, no brug ar annad ocus oll ar a doimne .i. in tollom gairi. .i. dia ti oillbrig a lan ai .i. rig no eprcop no uaral nemead cena. No mian ngalair .i. no in mían do berar do in tan bi re ingalar. Co teora bliadan .i. co ceand tri mbliadan bid beiċ i faeire .i. geni aile eirtib aċt grin. Cir .i. cid. Na teora bliadna .i. otha na tri bliadna grin bid beiċ i faeire. Ir forrind .i. ir don luċt foro roiċid ind a noirgne. Focert .i. ċuirṫir in grnaċt iree. Ar ro raig .i. ind aired ro indraiger reig. Ro raiġ in bech .i. ro indraiġiḋ in comad cetna. O ta na teora bliadna .i. o ṫa na tri bliaḋna bid beiċ i faeire. Ailit a raithib .i. airiltnigid luct na crice raiṫe do coibdeleguḋ doib. Ar ni fulaing .i. uair nocon imuilingenn neaċ ní in deolaḋċaire, in nairiḋ, da ċeile. Deolaid .i. deolaid leir ar aba in cain cuirc ocus in miann galair no ind aillabruiġ ne. Ar iri trirrintiu .i. uair iri reo trear rine duṫaiġ caenfoḋailter fo ċoibdeleguḋ na crice.

Cobdaile raithe, ocus bretha bairir bunaid, ocus urci tuirdne tur crícha; air iruide ro ruidiged gelrine ocus derbrine, iarrine ocus indrine hi rinteḋaib gniain

years, it is not meant thereby to infer, that it is peopled with the same queen or the same bees during the whole of that time. A hive in this respect" (he continues) "may be compared to a city; the inhabitants who founded and built it are long since dead, but it still remains peopled by their descendants, and many perhaps have emigrated from it to form a colony elsewhere."

The same writer states that the bee is generally in its state of perfection from the 21st to the 23rd day; that the drove takes its flight usually about the 27th; the queen about the 16th. They are entirely suspended during the cold weather. *Huish*, 2nd Edition, p. 129.

"The young bee has no sooner emancipated itself from its cell, than the common bees flock around it, and with their proboscis cleanse it of any extraneous matter which it may have brought from its cell. At the same time, the young bee seems delighted with the attention which is shown it. It first tries its wings, then cleans its antennæ, and in a few minutes is in the fields gathering provision for the hive." *Huish*, 2nd Edition, p. 130.

"When a young queen-bee has emerged from her nymphal state, she is capable of laying eggs in the space of three or four days, and she would lay them if she

these four lands which are next to hand to them are not entitled to get anything else. But according to the 'Cain Cuisc,' i.e. but the rule of 'the drink from the hive,' i.e. the thing by which it is understood, and there is no limitation upon it, or, *according to some*, it is half a cup[1] out of a milch-cow vessel. Half a cup is due to them out of a milch-cow vessel which a man can raise to his knee; one-third of a cup out of a 'samhaisc'-heifer vessel, which a man can raise to his navel; one-fourth of a cup out of a 'colpthach'-heifer vessel, which a man can raise to his loins; one-fifth of a cup out of a 'dairt'-heifer vessel which a man can lift over his head. Or 'allabrig naie,' i.e. a sufficiency for the chief of a party *at a feast*, or what is given to the person who is of great power in science, or 'brug' for steadiness and 'oll' for his depth, i.e. the 'ollav' of wisdom, i.e. to whom great force comes from full science, i.e. a king, or a bishop, or any noble dignitary whatever. Or the longing of disease, i.e. or the thing which is given to him to satisfy his longing when he is in a disease. Until *the end of* three years, i.e. till the termination of three years bees are in freedom, i.e. without being subject to anything else *to be obtained* out of them, but that *before mentioned*. Cip i.e. cid. *From* the three years, i.e. from these three years during which bees are in freedom. According to the injury, i.e. it is for the people to whom they go, according to their injuries. Are imposed, i.e. this 'smacht'-fine is imposed. As long as *the cow* requires, i.e. as long as she requires. So long does the bee require, i.e. require the same length. From the three years out, i.e. from the three years that bees are in freedom. Are entitled to *a share* of swarms, i.e. the people of the land are entitled to a division of the swarm. For no one is liable, i.e. for no one is liable to *give* anything in gratuity *or* of grace to another. Gratuity, i.e. it is deemed a gratuity by him on account of the 'cain cuisc,' or 'the longing of disease' or the 'allabruigh ne.' For this is the third tribe-property, i.e. for this is the third tribe-property which is fairly distributed according to the division of the lands.

The distribution of the swarms, and the judgments of top *and* trunk of trees, and drawing water across lands . . . for in *respect of* this 'geilfine' and 'derbhfine,' 'iarfine' and 'innfine' are placed by the Feini

had a particular establishment of her own independently of the mother hive, in which the young queens never possess the privilege of laying their eggs. She is, however, in a state qualified to place herself at the head of a colony disposed to share her fortunes. Such is the attachment of the bees for their queen."

"The first swarm that appears in the spring is always in part the produce of the eggs which were laid in the preceding year. These eggs have subsisted in the hive during the autumn and winter in the state of eggs fecundated by the drones. These eggs are not hatched until the return of the warm weather in April or May, and the drones which are the produce of these eggs as soon as they have quitted their nymphal state, fecundate the eggs, which the queen has already laid in the cells of the present year." *Huish*, 2nd Edition, pp. 190, 191.

[1] *A cup*, 'escra.' "Quoddam argenteum vasculum unde potentibus personis potus hauriri solet, quod Hibernicâ linguâ vocatur *escra*," vita Darercae.—(Brussells, MS. quoted by Dr. O'Donovan.)

Bee-Judgments. la Feine. Ar iri bretb bairr bunaid la Feine aliderde cro ima torad, fobith fnuad tire inidcuiretbar a torad, ar dilrigthir barr bunaid a ttorad in cethramad bliadain do tir incuiritber a dtorad.

Cobdaile fraithe .i. fraith do cobdeiledud doib .i. ir in cethramad bliadain. Brethe bairr .i. in breat ata itir fear bona in craind ocus fear a bairr. Urci tuirtine .i. ocus in tuirce tairgiter tar na fearandaib. Air irutde .i. uair ir fo dormailiur na aei eada irin fo ruidiged. Gelfine .i. in tobor. Derbfine .i. in dire o tobur gu lind. Iarfine .i. in lind. Indfine .i. olind fir. Ni fintedaib .i. i fine dindib in fearand da reir ind enedair. Ar iri bretb .i. uair ir i feo breat ata itir fear bona in craind ocus fear a bairr do reir ind enedair. Alidride .i. airiltnigid feifidedg cro da denam im a dorad. Fobith fnuad tire .i. fon fad feanaith no ecoirc in tiri, in fearand ina da cuirend fe a dorud. Ar dilrigthir .i. uair dilrigid fear bona in craind torad a bairr gach ceathramad bliadain dfir ind fearainn ina da cuiritir e. Incuiritber [.i.] in barr.

Inna teora bliadna aile confodlaiter i nde eitir tir inidchuiritber ocus tir ara nara; cire dallina inidcoimge, direnar leithdire dia railiu a beraib fid bretb, fo ruire cacha feda, amail fo ruidiged la Feine.

Mad tairbe, direnar fo tairdbe cach feda, co centuil do, acht ni foeter nemed de.

Ata amfer ar coimdire tairdbe cacha feda fria bunebe; ata ind amfer aile ni aile acht trian dire ina tairdbe.

Mad beich fogabat and, confodlat a torad etarru

[1] *The embankment.* It is very difficult to decide whether the Irish word thus translated is 'dire' or 'dine.'

among the tribes of the land. For the judgment of top *and* bottom, according to the Feini, is that a fold is required about his fruit, because of the appearance of the land in which the produce is sown, for the bottom is entitled to the fruit of the top every fourth year, of the land in which the fruit is sown. BEE-JUDGMENTS.

The distribution of the swarms, i.e. the swarms to be divided by them, i.e. in the fourth year. The judgments of top, i.e. the judgment that is *passed* between the owner of the bottom of the tree and the owner of its top. Drawing water, i.e. and the water which is drawn across the lands. For in this, i.e. for it is after the likeness of these they are placed. 'Gelfine,' i.e. the well. 'Derbfine,' i.e the embankment[1] from the well to the pond. 'Iarfine,' i.e. the pond. 'Innfine,' i.e. from the pond down. Tribes of the land, i.e. the tribes of the land according to the 'Fenechus'-law. For the judgment, i.e. this is the judgment that is between the owner of the bottom of the tree and the owner of its top according to the 'Fenechus'-law. Is required, i.e. he ought to make an enclosure about his produce. Because of the appearance of the and, i.e. because of the surface or aspect of the land, of the farm in which he sows his produce. For *the bottom* is entitled, i.e. for the owner of the bottom of the tree becomes entitled to the fruit of its top every fourth year; *i.e. it is due* to owner of the land in which it (*the tree*) is planted. Is planted, i.e. the top.

In the other three years it is divided into two *parts* between the land in which it is planted and the land out of which it grows; whichever of the two parties commits injury, he pays half 'dire'-fine to the other according to the customs of wood judgments, according to the rank of each tree, as it was established by the Feini.

If it be cutting, it is paid for according to the cutting of each tree, according to its kind, except what the 'nemedh' frees of it.[2]

There is a time when the cutting of each tree is liable to the same 'dire'-fine as cutting the trunk; there is another time when it incurs but one-third 'dire'-fine for its cutting.

If it be bees that have taken up *their abode* there, they divide their produce between them into

[2] *Frees of it.* The words 'nemeo oe,' may also mean, a 'nemedh' of God, 'an ecclesiastical dignitary.'

Bee-Judgments.

1 nde co cenn teora bliadan; acht ir 1 tire ara nara in torad.

Inna teora .i. ina tri eile. Confodlaiter .i. ir caéin fodailtir ar do itir in fearand ana da cuirind fe a torad a bunad .i. in fearand ara narand fe; comroind torad in croind ar do go ceand tri mbliadna, itir fear bona in craind ocus fear a bairr, .i. ocus a torad gach ceathramad bliadain trir a bairr. Cire .i. cibe don da imad frin em cuimgter .i. a leatorad. Direnar .i. eirnid fide leitdire and dia éeile. A berair .i. a bair gnae no aibind breitemnair na fead. Fo fuire cacha feda .i. fo uairlidetaid gaca fead .i. gid fiadan gid cumra. Ro fuidiged .i. amail fo fuidiged e do reir ind enecair.

Mad tairbe .i. mad ar timcell do nechar. Direnar .i. eirnitir fo airdeibi gacha fead ir comail cenél frir, ocus ni leatarthar uile. Acht ni foerer .i. act innî foerar derin a béit conad fid neimid e uair nocon fo aigned craind ita ina inmide, act fo aigned grad in ti iga mid.

Ata amser .i. ita aimser ir comdire airdtimceall gacha fead fria beim dia bun a lantimcell i mír marbdatad. Ata ind amser .i. ta aimser eile, ocus noco nairiltnigend fe act trian dire .i. da trian na lantimcell i mir beoartad, no trian a lantimcell i mir marbdatad.

Ma beich .i. mad beid gabaid and. Confodlat .i. ir cain fodaile a torad na raited atoru ar do co ceann tri bliadna. Acht ir 1 tire .i. act agum ir re fearaind.

Fearaind ar an farand fe a bunud a torad gach ceathramad bliadain, go roind torad na mbeac ar do gu ceand tri mbliadan, itir fear bona in craind ocus fear a bairr; ocus a torad gach ceathramad bliadain trir a bona, amail berer fear in bairr torad in craind gaca ceathramad bliadain, ir amlaid sin berer fear bona in craind torad na mbeac gac ceathramad bliadain. Co na

[1] *A dead month.* That is, a month in which there is no vegetation.

[2] *If it be bees.*—See Huish on the rearing of bees in the trunks of trees. "In Poland the laws are particularly severe against robbers or destroyers of this property (*bees reared in the trunks of trees*), punishing the offender, when detected, by cutting out the navel, and drawing out his intestines round and round the very tree which he has robbed."

"Varro is the oldest who mentions hives as a receptacle for the bee; since his time the form, as well as the materials of them, has been much altered, and they are to be found of all sizes and forms in different parts of the world." *Huish*, 2nd Edition, p. 52. See also pp. 412, 413, 414.

two *parts* to the end of three years; but the produce belongs to the land out of which it grows. BEE-JUDGMENTS.

In the *other* three, i.e. the other three *years*. It is divided, i.e. it is fairly divided into two parts between the land in which he sows his produce originally, i.e. the land from which it grows; the fruit of the tree is equally divided into two *parts* to the end of three years, between the owner of the bottom of the tree and the man who owns its top, i.e. and its fruit every fourth year to the owner of its top. Whichever *of the two parties*, i.e. whichever of the two has injured *the tree*, i.e. by cutting it. He pays, i.e. they pay half 'dire'-fine to each other. According to the customs, i.e. according to the good or pleasant knowledge of the judgment of the trees. According to the rank, i.e. according to the nobleness of each tree, i.e. whether wild or sweet. Was established *by the Feini*, i.e. as it was established according to the 'Feinechus'-law.

If it be cutting, i.e. if it (*the cutting*) be made all round. It is paid for, i.e. it is paid for according to the high cutting of each tree which is of equally good kind, but it is not cut all round. Except what *the 'nemed'* frees, i.e. but what is freed of it by its being a 'nemedh' tree, for it is not according to the nature of the tree that this is, but according to the nature of the grade of the person who possesses it.

There is a time, i.e. there is a time when equal 'dire'-fine is *paid* for high cutting the round of each tree, *and* for cutting it all round at the bottom in a dead month.[1] There is a time, i.e. there is another time, and it (*the cutting*) does not incur but one-third 'dire.'-fine, i.e. two-thirds for its full round in a living month, or one-third for its full round in a dead month.

If it be bees[2], i.e. if it be bees that have taken up *their abode* there. They ivide, i.e. they fairly divide the produce of the swarms between them into two *parts* to the end of three years. But the produce belongs to the land, i.e. I make an exception as to the land.

It is to the land out of which it (*tree*) grows originally that its produce belongs every fourth year (until the produce of the bees is divided into two *parts* to the end of three years), between the owner of the bottom of the tree and the owner of its top; (and its produce every fourth year *is due* to the owner of the bottom, in the same way as the owner of the top gets the produce of the tree every fourth year), so the owner of the bottom of the tree obtains the produce of the bees every fourth year. This is when the

"When bees were first cultivated in Germany, the hives consisted of excavated trunks of trees, which were placed perpendicularly in a row. In Spain they are formed to this day of an excavated trunk of box."

"In Russia the swarms are placed in earthen vessels, and in Provence and different parts of Italy, they are made of four planks well fastened together. In the latter country they are also made of the trunks of trees." *Ib.* pp. 52, 53.

Bee-Judgments.

fintu fear bunaid ina mbeaċ ainḋrin ; no go maḋ ar cuid fir in craind da beṫ in comroind fin, iar mbreiṫ dib bunaid a ċuid eireib roime.

Fintiu griain i mbeċ brethaib irri fede fochorle a deirbrine, ar ir i deirbrine i mbech brethaib dib ber da nerom fodaloing. Irred on ailer cet raithe deolaid dia teora mbliadan. Na teora cricha aile, crich dib ber da nerom, ber tech torad, iride berer tanaire. Mad comcecri, ocus mad commaith a torad, focerdar crann etarru dur cia de berer tanaire, ocus meraige ; imana in cethramad crich conber cet raithe dia bliadain ; acht dlegar donaib crichaib reo narrre roirche focerdat in bech raithe, ar a mbe fer uaidib occa nimchomuet, ar na erlat a raithe ; ar dia nerlat, ni dlegatrom romuine, ocus foloingatrom beochu co cend mbliadna aithirruch.

Fintiu .i. ata duṫcur don ine a dualgur ind fearaind ir na beaċaib do rein na mbreaṫ. Fochorle .i. ir iride foxlar le e fo ċormailiur na deirbine ar geibine. Ar ir i .i. uair iri cormailiur na deirbine ar geibine i mbreiṫemnar na mbeaċ. Dib ber da nerom .i. in fearand ir nera doib, imuilnigter iad. Irred on .i. iri rideig aralṫnigter cedraiṫe di indeolaḋaire i cind tri mbliadan. Deola d .i. ir e cuid in deolaid nuċun eigen di crandur. Cricha aile .i. in crid dib ir nera ocus ir fearr torad. Iride .i. iri ride berer in raiṫe tanaire. Mad comcecri, .i. mad comacraib iad ocus mad comaiṫ a torad. Dur cia de berer .i. da ir cia berer in raiṫe tanaire. Meraige .i. cia berer in rmeraige. Imana in ceaṫramad .i. eamnaid in ceaṫramad crid gu mberend fri ced raiṫe i cind bliadna ar tri bliadnaib, no i cind na bliadna fin fein. Acht dlegar .i. aċtaigim gu ndleagar do luaṫ na fearand ra na ree foluṫar i cuired beiċ raiṫi uaiḋib. Ar

[1] *To watch them.*—See Huish's Treatise on Bees, 2nd Edition, p. 192. "To guard against the fallacy of these signs, the most prudent method is to keep or appoint a regular watch, from the hours of 9 a.m., to 3 p.m. Many persons select children for this

original owner of the bees is not known; or, *according to others,* this division is of the share of the owner of the tree, the owner of the bottom having previously taken his share therefrom. BEE-JUDGMENTS.

The tribe of the land in bee-judgments is like the 'deirbhfine,' for in the bee-judgments the land which is next to them and which supports them is the 'derbhfine.' It is entitled to the first swarm gratis after three years. *Of* the other three lands that land of them which is nearest, which is of best produce, shall get the second. If they are equally near and if the produce be equally good, lots shall be cast between them to know who shall obtain the second swarm and the 'meraighe'-swarm; the fourth land shall make its claim, and shall get the first swarm after one year; but these lands are bound in the bright times when the bees send out a swarm, to send a man to watch them,[1] that the swarm may not escape; for if it should escape, they shall not be entitled to profits, and they shall support the bees to the end of another year.

[1] The tribe of the land, i.e. the tribe is entitled to a share in the bees, in right of the land according to the judgments. Is like i.e. it bears it away after the likeness of the 'deirbhfine'-division from the 'geilfine'-division. For it is i.e. for it is like the 'deirbhfine' over the 'geilfine' in the judgment as to bees. The land which is next to them, i.e. the land which is nearest to them, which sustains them. It is it i.e. this is that which is entitled to the first swarm gratis at the end of three years. Gratis, i.e. the force of 'gratis' is that it is not compulsory to cast lots. *Of the* other *three* lands, i.e. the land of them which is nearest and of best produce. It is it, i.e. it is it shall get the second swarm. If they are equally near, i.e. if they are equally near, and if their produce be equally good. To know who shall obtain, i.e. to know who shall get the second swarm. 'Meraighe'-swarm, i.e. who shall obtain the 'smeraighe'-swarm. The fourth shall make its claim, i.e. the fourth land sues until it obtains the first swarm at the end of the year after[a] three years, or at the end of that very year. Ir. *on.* Are bound, i.e. I make a condition that this is incumbent on the people of these lands in the bright times[2] in which bees send out swarms. To send a

purpose, who are often led away by trifles, and thus the swarm, the chief profit of the proprietor, is lost to him."

[2] *Bright times.*—The bees generally swarm from the hours of nine till three in May or June, in England. *Huish*, 2nd edition, p. 189.

Bee-Judgments.

a mbe fer .i. go rab fear uaidib oga nimcoimed. Ar na arlat .i. ar na ro elad na faidi. Ar dia nerlat .i. uair dia nelad .i. in faidi. Co cend mbliadna aithirruch .i. ar tri bliadnaib adarad in faidi.

Cid fo derna comid don duine fea dleagar in faidhe do coimed fund, ocus conud dir crainn dlegar tír coimed in crainn. Is e fath fo derna, fer in crainn geiber dir na mbeach tir a beich do breith leis, ocus coir gemad he do coimedad do; fund imorru, noca gabann in duine fea dir in faithe a faidhe do breith leis, acht co ro cuirther he, ocus coir gemad é fein do coimedad do.

Duine fein ocus beich aige, nochot uillit beich ic luchd na fearann is nera do. Ocus ired dlegar de cain cuirc, ocus mian galair ocus allabrug nae, do tabairt do luchd na ceithri fearann is nera do re re tri mbliadan; ocus comrann faithe doib is in cethrumad bliadain; ocus is i comrann dlegar doib .i. cet faithe ocus tanaise ocus fmeraige. Ocus in crich dib is nera ocus is ferr torad is i beres cet faithe gan crandcar; ocus tanaisi ocus fmeraige do breith do na tri crichaib aile; ocus ma ta dibride crich is nera no is fearr torad a ceile, is tanaisi do breith di cen crandcur; ocus crandcur do cur isin na da crich aile, ocus in ti dib da riacht beith cani in bliadain sin is cet faithe do breith di, ar is gen crandcur; ocus in cain cuirc ocus in mian nga—lair, ocus in allabrug nae do tabairt do luchd na ceithri fearann is nera doibrium in bliadain sin; ocus ind uair ber aimser cora faithe doib is red dlegar dir na mbech a focra doibrium nech uaidib aca coimed ar na ra elat. Ma ra focairthium doib ired dlegar dib a tabairt, ocus maine tugad, da nelat na beich, nocon fuil comrann faidi doib in bliadain sin. Mad imorcuid do neat luid na faidh, ired dlegar cain cuirc ocus mian ngalair ocus allabrug nae do tabairt doib re re tri mbliadan; ocus aenfecht cacha bliadain dlegar na neice isein. Maine dearnorat imorcuid, acht nocho nuil ni doibrium andride, ar is uathad conoirg fri fochaide ced.

[1] *The second.*—"A second swarm in this country is very seldom worth preserving through the winter, as the stock of honey which it collects is not sufficient to maintain it through a wild season." Huish, p. 210.

Many. There is a note by the scribe here, partly illegible; he appears to have been Aedh, son of Concubar (Connor), son of Gilla na Naemh, probably, of the MacEgan family of Brehons.

man, i.e. that a man is *appointed* by them to watch them. Tha it may not escape, i.e. that the swarm may not escape. For if it should escape, i.e. for if they should escape, i.e. the swarm. To the end of another year, i.e. the swarm for three other years. BEE-JUDGMENTS.

What is the reason that it is incumbent on this person to watch the swarm in this instance, and that it is the owner of the tree that is bound to mind the tree *in the case cited* below? The reason is, the owner of the tree obtains *leave* for the owner of the bees to take away his bees *in this case cited* below, and it is right that he (*the owner*) should mind them; but in this case, this man does not obtain for the owner of the swarm *leave* to take away his swarm, but that it be set, and it is right that he himself should mind it.

This is *the case of* a man who has bees, and the people of the lands next to him have not bees. And what is due of him is to give the 'Cain Cuisc,' the 'longing of disease' and 'allabrug nae' to the people of the four lands next to him for a period of three years; and the swarms are to be equally divided by them in the fourth year; and they are bound to make an equal division, i.e. *of* the first swarm and the second[1] and the 'smeraighe'-swarm. And the land of them which is nearest and of best produce shall obtain the first swarm without casting lots; and the second swarm and the 'smeraighe'-swarm shall be obtained by the other three lands; and if there be one of these lands that is nearer or of better produce than the others, it shall get the second *swarm* without casting lots; and lots shall be cast between the other two lands, and the one of them which happens to get nothing that year shall get the first swarm, for it is without casting lots; and that year it shall give the 'cain cuisc' the 'longing of disease' and the 'allabrug nae' to the people of the four lands nearest to it; and when it is time for their sending out a swarm, the owner of the bees is bound to give them notice to send one from among them to watch them (*the bees*) that they may not escape. If he has given notice to them they are bound to comply,[a] but if he has not been sent, *and* if the bees depart unobserved *and are lost*, there is no division of the swarms for them that year. If the owners of the swarms have gone away (*removed*), they are entitled to receive but 'cain cuisc,' 'longing of disease' and 'allabrig nae' for a period of three years; and once in each year these things are due. If they have not departed, there is nothing due to the others then, for it is *a case of* 'few prevailing over many.'

[a] Ir. *To give him.*

Bee-Judgments.

Cach crich roucca a techta ni dligaide tairgille na fmachtu, ar ired uatath in fain conoirg fri fochaid la feine. Mad infcuchud, ni dlegar ni doib acht cain chuirce no miann ngalar no allabruig nae, ar dlegair doibfeom iar naib teorai bliadnaib faifie; ir iar fen fuid for a techta, cip dune larain ba uru tauirguille naifiu ollodate fmachta; ir foma do cach fecht oca mbet.

A techta .i. in faiti. Ni dligaide tairgille .i. geall da fcreaball. Na fmachta .i. na faithe. Ar ired uatath .i. a aen faite feoin i naigid faite imda ind fir eile. Mad infcuchud .i. mad feicfeacar iad .i. urgalan ir an ceathramad bliadain. Ni dlegar .i. noco dleagar ni eile doib do na crichaib. Ar dlegair .i. uair dleagar doib fin uaitib iar na bliadnaib imid i faeifie. Ir iar fen fuid .i. iarr an tfer bliadain. For a techta .i. for in infcuchud, no for in faite. Cip dune .i. gib duine fir nad uru geall toruitnead, orro .i. geall da fsreball. Smachta .i. na faithe. Ir foma .i. ir fo a mait, no ir foeinta du gach fuct duine isa mid, no ir frogo.

Ir di fuidirib i mbechbrethaib la feine cipe forfa fuifet occa colluid, occa cumfcuchud, occa ngabail, occa ndecrin dafo forfau in am in tochumlat. Etechta doib dan, cipe infuifet oc dul feccu iar na chonair, do neoch na dene olcc nach annfeict frifi; ar ir efede fuil ailer ailer faid ind fir di mil forgaibther and, la fir o ta fuidiu nad fo marb in bech fodmbi; ar ma fo marbthar fid, artet a cinaid amal cach.

Forfa fuifet .i. cnead isa millead no oca marbad. Occa cumfcuchud .i. ar gach leagtar do leagtar. Occa ngabail .i. da barrnaib ocus do maignib. Occa ndecrin .i. osa ndecrain dar a foirtud. In am in tochumlat .i. ir an re fudain ico nimluaidid

Every land which has given what is lawful is not bound to give additional pledge or 'smacht'-fines, for that would be[a] *a case of* 'the few prevailing over the many' with the Feini. If they depart there is nothing due to them but 'cain cuisc,' or 'longing of disease,' or 'allabruig nae;' for these are due to them after the three years of exemption: it is after this he sues for his right, whoever he be that deems it easier to give additional pledge than 'smacht'-fines; it is for the good of every kind of person who has them.

BEE-JUDGMENTS.

[a] Ir. *Is.*

What is lawful i.e. the swarm bound to, and additional pledge, i.e. a pledge of two 'screpalls.' Or 'smacht'-fines, i.e. for the swarms. For that would be the few, &c., i.e. his one swarm against the many swarms of the other man. If they depart, i.e. if they dispose of them by sale, i.e. utterly[b] in the fourth year. There is nothing due, i.e. nothing else is due to them from the lands. For *these* are due, i.e. these are due to them from the others, after the years during which they are in freedom. It is after this he sues, i.e. after the third year. For his right, i.e. for the departure, or for the swarm. Whoever, i.e. whatsoever person it be to whom it is easier to give a relieving pledge for them, i.e. a pledge of two 'screpalls.' 'Smacht'-fines, i.e. for the swarms. It is for the good, i.e. it is for his good, or it is ceded to every kind of person who has them, or it is a choice.

[b] Ir. *Quite clean.*

Of the innate rights in bee-judgments with the Feini are *the cases of* those whom they may injure while they are being destroyed, or removed, or taken, *or* in being viewed over thy dwelling at the time of their swarming. It is unlawful for them if they sting anyone in passing by them on his path, who does not do them harm or any thing illegal; for this is the blood which is entitled to a full meal of honey for the man who was stung in this instance, with proof from him that he did not kill the bee which stung him; for if he has killed it, its crime will pass like that of every other *animal.*

Whom they may injure; *inflict* a wound in destroying or killing them. Or removed, i.e. from any one vessel (*hive*) to another. Or taken, i.e. from tops *of trees* or from precincts. In being viewed, i.e. in viewing them over his habitation. At the time of their swarming, i.e. at the particular time

BEE-JUDGMENTS.

beiċ raiċeḋo cur gu toiċ no gu luaṫ. Ḋtechta doib .i. ir indligeḋ doib gibe forro ro índraigeḋ is dul reocu for in conair. Inruiret .i. in torbaċ gu narm. Na dene olcc .i. a marbṫa. Ann reċt .i. aimdirgideṫaiḋ gaiḋi riu .i. bualadh na cer. Ar ir erede .i. uair ir iride fuil aile raiṫ fir do mil inti. [Fuil, fotuinn.] Forgaibther .i. for a tabar and in forgorn. La fir .i. la fir luiġe o naei feaḋa [.i. luiġe a oenur] irin co nar marbarar re in beaċ ro gonarar e .i. fir fola no fairaiġḋe. Marbthar rid .i. aṁail in caċ ir diler in uair a fogla, no amail cach rob cetcintaċ, ocur ata dil in cinaid and.

Mad fuil fo chaecha, irr iridiu ailid co crann forr in lertrai naile, cip lertra dia thoth dib ar tet a riach. Air ir i cetna breth in fo cet aracead im chinta bech for conaill caech caechrite bech. Bach ri temrach comidubart arra flaiṫ. Tobert a chin forr in fer batair bech, noch ir i breth inro bretha la ultu ocur finiu imbi. Air irr iruidiu artet fochaaide cinaid noenfir nad forruchatatar uile, la Feine; amal mart forrecar la cona no mucca no cethrae, no fer gonair a acht fluaiġ mair, nathid la miter auirthuch na forthuch for nech rainderedach, direnar in fer uadaib uile, no do rochratar uile indilre.

Mad fuil, .i. maḋ fuil caeċar riad. Irr iruidiu, .i. ir an aei eaḋa irin airiltnigiḋ re cur craind for na learthaib uile, .i. for na cearcaib. Cip lertra, .i. gibe learthar dib doiter and. Ar tet a riach, .i. tuitid na riaċ, .i. cetr irin caeċad rin na beiċ. Air ir i cetna breth, .i. uair ir i reo ceo breaṫ rugaḋ for conall do caeċadar. Bach ri temrach, .i. reiċim no indraigim conad a ruġe tulaċ naibind do bínre. Comidubart, .i. gur cuired he ár a laiṫemnar. Tobert a chin, .i. tugaḋ a ċin forr an fear ag a rabadar beich ina

1 *Blood on the skin.*—It is doubtful whether the word "fotuinn," which is on the right hand margin of the page in the MS., was intended as a gloss on 'fuil.'

2 *Conall Caech.*—For Congal's charges against Domhnall, King of Temhair, see Battle of Magh Rath, published by the Irish Archaeological Society, Dublin.

that the bees send forth swarms soon or quickly. It is unlawful for them, i.e. it is unlawful for them if they attack any one in passing by them on the way. They sting, i.e. the profitable worker with a weapon. Who does not do any harm, i.e. killing them. *Or* anything illegal, i.e. the illegality of stealing as regards them, i.e. to strike the hives. For this is *the blood*, i.e. for this is the blood which is entitled to as much honey as is sufficient for a man, i.e. blood on the skin.[1] Who is stung, i.e. on whom the stinging is inflicted here. With proof, i.e. with proof by oath from that particular individual, (i.e. oath by him alone), that he did not kill the bee which had stung him, i.e. a test of bloodshed or violation. *For if* he has killed it, i.e. like every *animal* that is forfeited at the time of its crime, or like every vicious beast of first crime, which is itself a sufficient payment for its crime.[a]

BEE-JUDGMENTS.

[a] Ir. *And payment of its crime is in it.*

If it be an eye that has been blinded, it is then required that lots be cast upon all the hives, *and* on whichever of the hives it (*the lot*) falls, it shall pay the fine.[b] For this was the first judgment passed first concerning the crime of a bee in respect of Conall Caech,[2] whom a bee had blinded. The king of Temhair came and removed him from his kingship. He charged the man who owned the bees with the injury, and this is the judgment which was passed by the Ulstermen and the Feini respecting it. For it is in this instance, the many become accountable for the crime of one, although they all have not attacked, according to the Feini; as a beef which is torn by dogs or pigs or cattle, or a man who is wounded in the van[c] of a great army, when no test or proof is found against a particular person, the *'eric'-fine incurred by the one* man is paid by them all, or they all are forfeited.

[b] Ir. *The fine goes upon it.*

[c] Ir. *At the breast*

If it be an eye, i.e. if it be an eye they have blinded. It is then *required*, i.e. in that particular case, it is required that lots be cast upon all the vessels, i.e. upon the hives. On whichever of the hives, i.e. whatever hive it (*the lot*) shall fall upon. It shall pay the fine,[b] i.e. the fine shall fall *on it*, i.e. the hive of which the bees have caused the blinding. For this was the first judgment, i.e. for this was the first judgment which was passed in respect of Conall whom they had blinded. The king of Temhair came, i.e. I insist or maintain that he dwells on a royal delightful hill. Removed him *from his kingship*, i.e. that he was deposed from his chieftainship. He charged with the injury, i.e. *the fine for* his injury was charged against the man who had *the* bees in his possession. This

Bee-judgments. arrud. Noch ir i breth, .i. reicim conad i reo breat rugad ag ultaib ime. Cir irr iruidiu, .i. uair ir an ai eada irin, .i. don breat ocus don caecad tet itir rochaide, .i. in cer uili i cinaid in aenfir, .i. in aen bech. Sochaide, .i. in raigi no in cer. Noenfir, .i. in beac do roin in caecad. Nad forruchatatar, .i. ocus nocor ruactnaigedar uili do reir ind fenecair. Amal mart, .i. amail mart eirgidir go na conaib. No cethrae, .i. co na ceatraib. No fer gonair, .i. no in fear gontar a uchd gluaig moir, im cocrand, no cum tabairt cia dib; no conid dilear a marbad itir rop ocus duine, iar nelod cirt. La miter, .i. ocus nocho laimtenach. Curthuch, .i. uaralteartugad rena nach uadaib do ronad. Forthuch for nech rainorredach, .i. imdenamha forrnec dib go runradach. Direnar .i. icdar in fear uaidib uile on trluag, no o na roraib. Rochrathar .i. in raidi.

Ni arum for brithemnaib i mbeic brethaib bech tetechta gaibte crann huaral nemid, nach ni aru a beim in crainn fo bid ind nemid, na aru dan a tuarlucud.

Dligid fer do daetet, ber bunadach doib, trian a dtoraid co cend teora mbliadan, acht ir ond nemud a nimcoimet; ocus ir deolaid a trian dic fer mbunaid; a trian naill do nemud i ruidigther; a trian naill do thir do melat. O tha na teora bliadna ni dlig fer in bunait cuit indib acht rmachta donecch, ma ruararat orggain a tire.

Ni arum .i. noco nuru lium i mbreitemnar na mbeac in ni rea nar ani romaind. Bech tetechta .i. beic tectaid ait no aide i mbuii crainn uaral neimid flatha no eclara. Nach ni aru a beim .i. nocon uru beim in crainn dia bun. Fo bit .i. fo daigin in neimid ar a crann e. Na aru .i. nocon uru a tuarlugud ar na mbeac.

1 *The tree.* Huish remarks that bees kept in an apiary in the vicinity of the woods, when they send forth their swarms, have always a propensity to lodg themselves in a tree, which is in their vicinity, because it is their natural and primitive habitation—2nd edition, p. 194.

Crevecaur thus expresses himself:—

"One of the problems most difficult to solve, is to know when the bees will swarm, and whether the swarm will remain in the hive provided for them, or

is the judgment, i.e. I maintain that this was the judgment which the Ulstermen passed concerning him. For in this instance, i.e. for it is in this particular case, i.e. concerning the judgment and the blinding, it goes among the many, i.e. all the hive for the crime of the one man, i.e. of the one bee. The many, i.e. the swarm or the hive. Of the one, i.e. the bee which caused the blinding. They *all* have not attacked, i.e. they all did not attack *Conall* according to the 'Fenechus'-law. As a beef, i.e. as a beef which is found with the hounds. Or cattle, i.e. with the cattle. Or a man who is wounded, i.e. or the man who is wounded at the van of a great host, as regards casting lots, until it is determined which of them; or it is lawful to kill them, whether vicious beast or man, after eluding justice. *When no test or proof* is found, i.e. and when there is no proof positive. Test, i.e. noble testimony denying that it was by them it was done. Or proof against a particular person, i.e. a proof against one of them in particular. Is paid, i.e. the *crime of* the one is paid *for* by them all, *i.e.* by the host, or by the vicious beasts. Or they are *all* forfeited, i.e. the swarm *is forfeited for the crime of one bee.*

It is not easier for Brehons in bee-judgments to decide concerning bees that have taken up *their lodging* in the tree[1] of a noble dignitary, with respect to which it is not easy to cut the tree on account of the 'nemedh,' nor is it easy to release them.

The man who has watched them, who is their original owner, is entitled to one-third of their produce to the end of three years, but they are to be minded by the 'nemedh'-person; and the third which reaches the original owner is *as* a gratuity; the other third is due to the 'nemedh'-person in whose tree[a] they fix themselves; the other third is due to the land on which they feed. From the three years out the original owner is not entitled to any share in them except 'smacht'-fines, if they should come to trespass on his land.

[a] Ir. *With whom.*

It is not easier, i.e. I do not consider this easier in the judgments of the bees than what we have mentioned before.[b] Bees that have taken up, i.e. bees which have taken possession of a place or lodging in the tree of a noble 'nemedh,' of a chief, or of a church. It is not easy to cut *the tree*, i.e. it is not easy to cut the tree at its base. On account, i.e. on account of the 'nemedh' whose tree it is. Nor is it easy, i.e. it is not easy to release the bees therefrom.

[b] Ir. *The thing before us.*

escape to establish themselves in the cavity of some tree; for when, by means of their emissaries, they have chosen themselves a retreat, it is not possible to retain them in any hive which you may select for them"—*ib.*, p. 194.

BEE-JUDGMENTS

Dligid fer .i. dligid in fear bis ina coimdeachtetar bech ina comaitecht. Ber bunadach .i. doneoch ir ead bunaid doib. Trian a dtoraid .i. trian a toraid co ceand teora mbliadan dib na mbeach. Acht ir ond nemud .i. achtaigim ir o neimhed, o fhir in craind, a nimcoimed fir in re sin. Ir deolaid .i. ir deolachaire in trian tic dib bunaid; ire cuid in deolaid, nucun eigen do a coimed. A trian naill .i. a trian eile do neimhed i fuidigthir no famaigthir iad .i. fear ind fearaind. A trian naill .i. ocus ni he in fad ir beich feara i mbun craind uaral neimid, ce airmithear fri dib, ni fri berar acht ibi nemead. Ni dlig fer .i. nocho dligend fer bunaid cuid dib .i. fear na meach Act fmachta .i. na faithe, no cain cuirc. Doneoch ma ruaraigid .i. ini sin macdia ro indraigedh fiad dorigoin a fearaind, ma beat beach acarum dorigain in tire ele.

Beich eara i mbun craind uaral neimid, da trian dib craind ann, ocus trian dib na mbeach gu ceand tri mbliadan, ocus ir dilegh dib in craind iad o da sin amach.

Beich cuntabairtacha i mun craind uaral neimid, teora ceathramthi ig fir in craind, ocus ceathramthe ag fir na meach gu ceand tri mbliadan, ocus ir dilegh dib in craind iad o da sin imach.

Beich eara a mbairb craind uaral neimid, trian dib in craind, ocus da trian dib na mbeach gu ceand mbliadna, ocus ir dilegh dib na mbeach o da sin amach iad.

Beich cuntabairtacha i mbairb craind uaral neimid, leath dib in craind, ocus leath dib na mbeach gu ceand mbliadna, ocus ir dilegh dib na mbeach iad o da sin amach; no, gumad dib in craind.

[1] *Known bees.* That is, bees which were watched when swarming, and identified in the tree of a dignitary.

[2] *To trespass.* Huish mentions cases of serious injury inflicted on animals by bees, when swarming, or being robbed.

"A man who did not perceive that he was in the vicinity of a hive on the point of swarming, tied his ass to a post; the hive swarmed, and fixed itself on the muzzle of the ass; the patience of the animal could not brook the strangers, and it began to rub its muzzle on the ground. The indignation of the swarm was roused, and the animal was so stung that it died in three days"—p. 192.

The Abbé della Rocca, relates a curious anecdote.

"A person, not very skilful in the management of bees, was appointed to deprive a hive of part of its honey, and in the operation he wounded the Queen bee. She immediately issued a most plaintive cry, and the bees attacked instantaneously all the spectators and the animals in the vicinity. A horse of the archbishop's was by chance tied to a tree contiguous to the apiary, and it was attacked with so much fury, that it broke the reins, and took refuge in a country

The man, &c., is entitled, i.e. the man who accompanied them *in their flight* and overtook them is entitled. Who is their original owner, i.e. who is their original possessor. One third of their produce, i.e. the third of their produce to the end of three years *belongs* to the owner of the bees. But by the 'nemedh,' i.e. I make a condition that it is by the 'nemedh,' by the owner of the tree, they are to be minded during this period. It is a gratuity, i.e. the third part which comes to the original proprietor is *considered* a gratuity; the force of the *word* 'gratuity' is, that he is not obliged to mind them. The other third, i.e. the other third *is due* to the 'nemedh'-person with whom they fix or settle themselves, i.e. the owner of the land. The other third, i.e. and it is not while they are known bees[1] in the trunk of the tree of a noble 'nemedh'-person; although they are accounted for the land, it is not it that gets *this third part* but it is the 'nemedh'-person. The original owner, &c., i.e. the original owner is not entitled to any share in them, i.e. the owner of the bees. Except 'smacht'-fines, i.e. the swarms, or 'cain cuisc.' If they should come, i.e. this is *so* if they should come to trespass on his land,[2] if they have bees to trespass on the other land.

As to known bees[3] in the trunk of the tree of a noble 'nemedh' two-thirds *of their produce are due* to the owner of the tree, and one-third to the owner of the bees to the end of three years, and they (*the bees*), are the property of the owner of the tree[4] from that out.

As to doubtful bees in the trunk of the tree of a noble 'nemedh,' three-quarters of their produce *are due* to the owner of the tree, and one-fourth to the *doubtful* owner of the bees to the end of three years, and they belong to the owner of the tree from that out.

As to known bees in the top of the tree of a noble 'nemedh,' one-third *of the produce* is due to the owner of the tree, and two-thirds to the owner of the bees to the end of a year, and they belong *exclusively* to the *original* owner of the bees from that out.

As to doubtful bees in the top of the tree of a noble 'nemedh,' one-half *their produce is due* to the owner of the tree, and one-half to the owner of the bees to the end of a year, and they belong to the owner of the bees from that out; or *according to others*, it is to the owner of the tree *they belong*.

house, but the bees pursued it with so much acrimony, that it mounted the stairs of the first story, and burst into a room full of company, to whom it was no doubt an unwelcome visitor"—p. 191.

[3] *Known bees.* This commentary is found on the lower margin of the MS., p. 23, and that which follows, on the top margin of same page.

[4] *Owner of the tree.* Huish says that in Poland the inhabitants have no regular bee-hives; and he adds, "Every peasant who is desirous of rearing bees, goes into the forest or district belonging to his master, without even his leave, makes a longitudinal hollow aperture or apertures in the trunk of a tree, or in the collateral branches, about three feet long, one foot broad, and about a foot deep, into which he

Bee-judgments.

Beiċ eara i mbun craínd iriṡ nemid, leaṫ drir in craind, ocus leaṫ drir na mbeaċ gu ceand tri mbliadan, ocus ir dilef drir in craind iad o ta sin imaċ.

Beiċ cuntabartaċa i mbun craind iriṡ neimid, ocus leaṫ ocus octmaṫ ig fir in craind, ocus leaṫ genmoṫa octmaṫ ig fir na mbeaċ gu ceand tri mbliadan, ocus ir dilef dib in craind o ṫa sin amaċ.

Fer o nelat beiċ imaig ir dib tic feo. In tan atber, cin bech cin con, cin cethra, imdala in chrandchair sin nama, ocus nagu nimdala ċomċinad do beith doib fo chutrumma.

Ni aru araile bech tectaechta gaibte bair nemed, no maigin, no brat scartha; ar cain dimet ind nemid ni do dauret, acht .uii. neludaig do chuirin la Feine, na dim nemed de na duine; bech do coirlet, ocus taid cu foindil, ocus eoladaig fine, fer airm deirg, ben arlui a cain lanamna, ocus ben no fer arlui gairi a mathar no athar, inge mad neċ na dama coir iar feta taide; cid erde ni dim nemed de na duine in neoch ma foraccbat duine oirngne dier fri mbi coir do cintuth.

Beich tetechta gaibte bair nemid, no maigin, no

deposits his bees, leaves them some food, but pays very little further attention to them, until late in the autumn. When after cutting out some of their honey, and leaving the remainder for their maintenance, he secures the aperture properly with clay and straw against the frost and inclemency of the approaching season. These tenements, if they may be so called, with their inhabitants, and the produce of their labour, then become his indisputable property: he may sell or transfer them; in short, he may do whatever he pleases with them; and never is it heard that any depredation is committed on them, except by the bear.—Vid. note[2], p. 170, *supra*.

BEE-JUDGMENTS.

As to known bees in the trunk of the tree of an humble 'nemedh-' person one-half *their produce is due* to the owner of the tree, and one-half to the owner of the bees to the end of three years, and they belong to the owner of the tree from that out.

As to doubtful bees in the trunk of the tree of an humble 'nemedh'-person, one-half their produce and one-eighth *go* to the owner of the tree, and one-half, except one-eighth to the owner of the bees to the end of three years, and they are the property of the owner of the tree from that out.

To the man from whom bees have escaped abroad this properly applies. When it (*the law*) says "the crime of bees, the crime of hounds, the crime of cattle," this has reference to the casting of lots only, and not to the co-balancing of crimes between them in equal proportion.

It is not easier in this other case *to decide* concerning bees that have taken up their lodging in the top *of the tree* of a 'nemedh'-person, or in the field, or on the spread sheet; for the 'nemedh'-person well protects what comes to him, except seven fugitives, mentioned by the Feini, which the 'nemedh' of God[1] or man[2] does not protect: bees that have migrated, and a wandering thief, and a fugitive from the tribe, a man who has stained his weapon with blood,[a] a woman who has fled from her matrimonial contract, and a woman or man who has fled from maintaining his mother or his father, unless he (*the father*) is a man who has not ceded justice after he has stolen goods;[b] for with respect to this no 'nemedh'-person of God or man protects the man who has left plunder behind him which should have been returned.

[a] Ir. *A man of a red weapon.*

[b] Ir. *After 'seds' of theft.*

As to bees that have taken up their lodging in the top of *the tree of* a 'nemedh'-person, or in a field,

[1] '*Nemedh*' *of God*, i.e. the ecclesiastical dignitary.

[2] *Of man*, i.e. the lay chieftain.

Bee-judgments. — brat fcartha, ailid nemed trian torad co cend mbliadna, in da trian aile do fir dodaetet berr bunaidach doib, acht ir o fuidiu a nimcomet, ar ir deolaid a trian ticc an nemed.

Ni aru .i. no comuru araile, gne eile, no ni hura in ní reo. Tectaechta .i. beid teadtaid ait no aide, na in ní romaind. Bairr nemed .i. crainn uarail neimid. No maigin .i. ar na muigib amuid. No brat fcartha .i. no brat do fgailed ar a cind, ocus fair tairiric Dimet .i. airned leat co ndiltnend in nemed in ni tic cuige for a comairge. Acht .uii. .i. na .uii. neici elaid and, do cain indeara no indirin ind feinechair. Bech do coirlet .i. foxlaid amad .i. tochairlait uad. Taid cu foindil .i. in gadaige .i. in ti bir for faineluid gin indile, amail coin, ar gad mad i nind. Colodaig .i. in ti elor co ninnle a dliged corura fini. Fer airim deirg .i. fear deargar a claidem irin crid iarr an marbad derge. Ben arlui .i. in bean elar a riagail in lanamnair. Ben .i. ingen. Fer .i. mac. Mathar .i. don mnai. No athar .i. don ír.

Ma ta teactugad ar a clarad no ar áelad na caelle, ocus nocon uil for a beadaib, ir beid eara i mbun áraind iril neimid do riagail riu. Ma ta teadtugud for a beadaib ocus nocon uil ar a clarad no for a caelad, ir beid cuntabairtada í mbarr craind iril neimid da riagail ru.

Iread ir bun and, gad uair nad fetar a neatarrgarad gen leadrad in craind. Iread ir barr and, gad uair ra fetar a netarrgarad gen ledrad in craind.

Comraind tri mbliadan for b[eadaib] bona digrer, ocus comraind bliadna for beadaib bairr. Ceadraimde a doda berer cuntabairt o fir bead dogrer, gid í mbun gid í mbarr gabaid.

Gaibte barr .i. gabait i mbarr craind uarail neimid. Ailid nemed .i. airiltnigid in neimed, fear in craind, trian a dorad go ceand mbliadna; co cend tedra mbliadan cach torad imach in tan ir bun gabait; co ceand tedra mbliadan cach torad amuich ocus ir do

[1] *By killing.*—A word in the gloss here is illegible.

or on a spread sheet, the 'nemedh'-person is entitled to the third part of the produce to the end of a year, the other two thirds *are due* to the man who caught them *and* who is their original proprietor, but they are to be minded by him, for the one-third given to the 'nemedh'-person is a gratuity.

It is not easier, i.e. this other case is not easier; another version, or this thing is not easier. Their lodging, i.e. bees that have taken possession of a place or habitation; *this is not easier* than the case before us. Top *of the tree* of a 'nemedh'-person, i.e. of the tree of a noble 'nemedh'-person. Or in the field, i.e. in the fields abroad. Or the spread sheet, i.e. or a sheet which was spread out[a] before them, and on which they rest. Protects, i.e. be it told by thee that the 'nemedh'-person protects the thing which comes to him under his protection. Except seven, i.e. the seven things which abscond, *and* which the 'Finechus'-law mentions or recites. Bees that have migrated, i.e. that have fled away, i.e. that have gone away from him. A wandering thief, i.e. the stealer, i.e. the person who is wandering without cattle, like a *stray* hound, from one place to another. A fugitive from the tribe, i.e. the person who absconds with cattle from the law of 'Corus-fine.' A man of a red weapon, i.e. a man who reddens his sword in the territory by killing.[b1] A woman who has fled, i.e. a woman who runs away from the rule of matrimony. A woman, i.e. a daughter. Man, i.e., a son. Mother, i.e. of the woman. Or father, i.e. of the man.

[a] Ir. *Loosened.*

[b] Ir. *After the red killing.*

If his trunks or branches of the wood have been appropriated, and his bees have not, they are regulated by *the case of* "known bees[2] in the trunk of a tree of an humble 'nemedh'-person." If his bees have been appropriated, and his trunks or branches have not, they are regulated by *the case of* "doubtful bees in the top of the tree of an humble 'nemedh'-person."

"Trunk" means, whenever they cannot be separated without tearing the tree. "Top" means, whenever they can be separated without tearing the tree.

A division for three years is always made of "trunk" bees, and a division for one year of "top" bees. Doubt always deprives the possessor of the bees of one-fourth of his share, whether they take up *their position* in the trunk or in the top.

Bees that have taken *up their lodging in* the top, i.e. they take a position in the top of the tree of a noble 'nemedh'-person. The 'nemedh'-person is entitled, i.e. the 'nemedh'-person, the owner of the tree, is entitled to one-third of the produce to the end of a year; when they take up in the trunk, he shall have the third of each produce till the end of three years; to the end of three years each produce

[2] "*Known bees.*"—See p. 183, *supra*.

Bee-judgments.

barrraib. Da trian aile .i. in da trian eile don fir bir ina coimdeacht. Berr bunaid .i. da neoch ir fearr bunaid doib. Acht ir o fuidiu .i. adtaigim o nai eadar irin a nemcoimed fur in re sin .i. o fir banaid. Ar ir deoladid .i. uair ir a neoladcaire in trian dic don inad .i. dir in crainn; ir e cuid in deoladid, nocon eigen do coimed.

De fuillemaib geall.

Bretha bairr ocus maigne di neoch do etegar, acht airdonemed; ailed fon cethramthain a toraid co cend mbliadna, neoch mani ro oircet cruch, air dodligid cach dir autrad dineoch fuidigthir frir.

Bretha .i. breithemnar fo do berar itir barr in irid neimid ocus maigne in irid neimid, ocus fearr bunaid na mbec. Bairr .i. for barrraib crand na nitel .i. na ngrad feine. Maigne .i. for na muigib imuig. Di neoch .i. di neoch a teagear daig dib go aith .i. do neoch dib dochum a ninaitcithen a tiachtain. Etegar .i. do inchuitchet. Acht airdonemed .i. acht in neimed ard, nocon eirgeg a deirim. Ire cuid ind acta and, uair in ceathraimte biar doib frie .i. in tirid. .i. ini do berar don uaral neimid ar gabail a mbarr a crainn ired on do berar do na gradaib ata irdi ar gabail a mbun crainn. Ired on ir don do maigin ind irid, mad beid cuntabartacha, .i. da trian don fir amuig, daig ir maigen irid ir in rann ir nessam teit.

Beid eara i mbarr crainn irid neimid, ceathraimte ig fir in crainn, ocus teora ceathraimte ig fir na mbeac gu ceand mbliadna, ocus ir dilег dir na mbeac iad o ta sin amach.

Beid cuntabartacha i mbarr crainn uaral neimid, leath geinmotha in feifed rand dec ig fir in crainn, ocus leath ocus feifed rand deg ig fir na mbeach gu ceand mbliadna, ocus ir dilег dir na mbeach iad o ta fein imach; no, gumad ag fir in crainn.

[1] *Of the increase of pledges.* This heading is more modern than the rest of the tract, and by a late hand apparently.

[2] *Are seen to come.* The second gloss is by another scribe, and so are several more in the tract.

abroad, when it is in the tops *they settle.* The other two-thirds i.e. the other two-thirds *go* to the man who has accompanied them. Original proprietor, i.e. the person who is their original owner. But they are *to be minded* by him, i.e. I make a condition that it is by this man they are to be minded during thi period, i.e. by the original proprietor. For it is a gratuity, i.e. it is as a gratuity the third which becomes *due* to the place is considered, i.e, to the owner of the tree; the meaning of 'gratuity' is, that he is not obliged to mind them.

Of the Increases of (*interest on*) Pledges.

In judgments concerning[a] *tree*-top and field to which they (*bees*) migrate, except *in case of* a high 'nemedh'-person; they (*the owners*) are entitled to the fourth of their produce to the end of a year, unless they migrate from the territory, for every land in which they settled is entitled to a share.

[a] Ir. *Of*

Judgments, i.e. this is a judgment which is passed between the top *of the tree* of an humble 'nemedh'-person, and the field of an humble 'nemedh'-person *on the one side*, and the owner of the bees *on the other*. Of top, i.e. on the tops of the trees of the humble '*nemedh*'-*persons*, i.e. of the Feini grades. Of field, i.e. on the fields abroad. To which *they migrate*, i.e. to which a swarm of them migrates quickly, i.e. to whichever of them they are seen to come.[2] Migrate, i.e. to which they remove. Except of a high 'nemedh'-person, i.e. except the high 'nemedh'-person, it is not he that I mention. The force of the 'except' here is, because it is the fourth part these get, i.e. the humble '*nemedh*'-*person*, i.e. what is given to the noble 'nemedh'-person for *bees* taking up in the top of his tree is the same that is given to the grades that are lower for their taking up in the trunk of a tree of theirs. This also applies to the field of the humble '*nemedh*'-*person*, if they are doubtful bees, i.e. two-thirds *go* to the man outside (*the claimant*), because it is the field of an humble '*nemedh*'-*person* it passes to the next division.

As to known bees in the top of the tree of an humble 'nemedh'-person, the fourth part *of their produce* belongs to the owner of the tree, and three-fourths to the *original* owner of the bees to the end of a year, and they are the property of the owner of the bees from that out.

As to doubtful bees[3] in the top of the tree of a noble 'nemedh'-person, one-half *of their produce* less by one-sixteenth belongs to the owner of the tree, and one-half and one-sixteenth to the owner of the bees to the end of a year, and they are the property of the owner of the bees from that out; or, *according to others*, they belong to the owner of the tree.

[3] *Doubtful bees*, i.e. apes quorum de proprietate non satis constat.

BEE-JUDGMENTS.

Cethramthain .i. inund feo ocus beic fera i mbarr crainn iril neimid. Neoch mani fo oircet .i. inni irin, mani fo indraige friad i cric eile, no do cum a crice budein; act a mbed irin crand, ar in crand, ir ann ata fin. Mani fo oircet .i. mana elat ar a tir fim gin a tarrachtain ann; dia nelat, ni dlig fim ni. Cia dodligid .i. uair dligid gach fearand dib fin aidi foaid do do neoch fuidigther no famaigther illeat fir, .i. mann fo ocus beic fera a mbarr craind iril neimid.

Fer metet raithe na bi lair co finnathar maigin in fuidegetar, trian di thir frir a fuidigethar, trian do fir do daetet, trian do lertur o at elat ber bunadach doib.

Fer o a nelat bech frochlamethar forgull motat in raithe hi tir a chele in mbuithib cor a raithe. Confodlat etarru in de in raithe fen cach dorad co cenn teora mbliadan, acht ir in tire infuidigther ar coir bunad a tuirten.

Fer metet .i. fear meitcer no comaitcher raithe na bi leir budein. Co finnathar maigin .i. gu finnan fe in dinad i fuidigend friad. Trian di thir .i. beic fera i mbarr crand uaral neimid fin, ocus trian do fir in crand, ocus da trian do fir na mbead, ocus leat a dodach o fir na mbead ar dobach ar in ceathramad cruich nimdeirg gen gabail mara; ocus .giu leath e ir trian, ocus giu trian ir leat. Trian do fir do daetet .i. trian don fir bir ina coimitect, ocus ni he in fat, act ar a tobad .i. leat cota fir bunaid do ar a lenmain, Trian do lertur .i. trian do na learthaib o nelan friad. Ber bunadach .i. dineoch ir fear bunaid doib.

Fer o a nelat bech .i. feidim no indraigim conad laimtinac leir foirgell imdenma conad leir in raithi ra inaitcertar i fearand neic eile. In mbuithib .i. indbaid do cuirertar a beic frium in raithe ar and fris in raithe amuich. Confodlat .i. fodailet eatarru an do in raithi frin, in nemead ocus fear in bunaid, uair ir cuintabairt. Cach dorad .i. a dorad gu ceand tri mbliadan.

[1] *Known bees*, i.e. identified bees.

[2] *It is one-half.* If the owner of the bees is entitled to half their produce when they fled away, the levyor is entitled to one-third of that half; but if the owner is only entitled to one-third, the levyor gets one-half of that third.

The fourth, i.e. this is the same as known bees in the top of the tree of an humble 'nemedh'-person. Unless they migrate, i.e. this is the case, unless they passed into another territory, or into their own territory; when they were in a tree, out of a tree, it is then this is the case. Unless they migrate, i.e. unless they escape out of his (*the 'nemed'-person's*) territory without being overtaken; if they *so* escape, he (*the nemedh-person*) is entitled to nothing. Is entitled, i.e. for every land of those in which they fix themselves is entitled to whatever has been ordained or settled respecting it, i.e. this is the same as *the case of* "known bees in the top of the tree of an humble 'nemedh'-person." BEE-JUDGMENTS.

As to a man who watches a swarm which is not his own, until he discovers the place where they settle, one-third *of the produce is due* to the land in which they settle, one-third to the man who has watched them, *and* one-third to the hive from which they have fled, *and* which is their original one.

A man from whom bees escape can offer proof that he observed the swarm in the land of his neighbour at the time of the departure of his own swarm. They divide that swarm in two between them *as to* every produce, until the end of three years, but the right to their young offspring belongs to the land in which they settle.

A man who watches, i.e. a man who has observed or watched a swarm which is not his own. Until he discovers the place, i.e. until he learns the spot in which they settle. One-third to the land, i.e. these are known bees[1] in the top of the tree of a noble 'nemedh'-person, and one-third is due to the owner of the tree, and two-thirds to the owner of the bees, and one-half of his share *is taken* from the owner of the bees for levying in the fourth unfriendly territory, without an arm of the sea *intervening;* and though it be one-half *that is due to the owner of the bees*, it is one-third, and though one-third, it is one-half.[2] One-third to the man who has watched them, i.e. one-third to the man who has accompanied them, and this is not the cause, but *he gets it* for levying, i.e. half the share of the original owner *is due* to him for following them. One-third to the hive, i.e. one-third to the hives from which they escape. Which is their original one, i.e. which belongs to their original owner.

A man from whom bees escape, i.e. I maintain or insist that he can offer evidence of proof that the swarm is his, which he watched into the land of another person. At the time, i.e. it was at the time when his bees were sending forth their swarm that the other swarm ran away. They divide, i.e. the 'nemedh'-person, and the original owner divide that swarm between them into two parts, because there is a doubt. Every produce, i.e. its produce to the end of three years.

Bee-judgments.

Acht ir in tire .i. aétaigim, ir oc rir ind fearaind i ruidigter no ramaigter iad ir coir in tuirti rin da beit; a bunud fear in crainn.

.i. No laimethar rad co ndechatar a beich irin tir, ocus ni laimethar forgell ar imtir na beich ro cuadar uad rainred; ir aire ir leat irin, ocus ir a mbun mbarr irid neimid, no fa mbarr uasal neimid, leat do daig irit beich chuntabarta; ir in raimn ir nesam do do cuaid la cundtabairt.

Mad airm i mbi immed mbech nochar rulla raithe cacha lertair, nach laimethar nech lui gu bed lair motat raithe doeit hi thir comaithich ber comoccur doib uile, confodlat etarru uile lethorud in taithi fen co cenn teora mbliadan, a lethorad naill hi tir i ruidigther, in na laimther forgull na airthiuch bid nech intainrudach.

Mad airm .i. imid beich imda. Nochar rulla .i. reicim no indraigim gur ela raithe ara gach learthar dib.

.i. Learthair ilarda do badar imuig and rin, ocus ro elo raithe ar gach learthar dib, ocus frit raithe dib i fearaind in comicig ir comacraib doib, ocus noco near coich dib he, ocus beich eara i mbun crainn irid neimid iad, ir leath dir crainn, ocus a leat doibrium uile, ocus comraindet e fo comairde.

Lui gu bed .i. a luigi gonad leir in raithi ro aitcertar a fearaind in coimicig ir comogor doib uile. Confodlat .i. ir caein fodailid na comaithig acurru uile leat torad in raithe gu ceand tri mbliadan. Lethorud .i. leat torad eile. Hi tir i ruidigther .i. ir re fear ind fearaind i ruidigter no ramaigther he, .i. do barr nemid uasal, uair ir cuntabairt; ocus roind ar do a dorad etarru co cenn tri mbliadan, ocus a mbreith dir crainn o da rin amach. In na laimther .i. noco laimtinad leo forgell imdenma na uasal tearcuid fena conid re neac dib e gu runrudad. Forgull .i. o na comichib. Na airthiuch .i. o rir barr.

1 *By doubt.*—If the man who claimed the bees could prove that they were his, he would be entitled to one-half their produce; but when he could only show a probable reason that they were his bees, he is only entitled to one-third of their produce; i.e. he goes from half to the next division, i.e. one-third in consequence of the doubt.

2 *Known bees;* i.e. it is known to what apiary they belong, although the particular hives from which they migrated have not been identified.

But it is in the land, i.e. I make an exception, that it is the owner of the land in which they settle, or are arranged, it is right that these swarms should belong; the original (*stock*) *belongs to* the owner of the tree. BEE-JUDGMENTS.

That is, he dares to say that his bees went into the land, but he dares not to offer evidence as to *these being* the particular bees which escaped from him; this is the reason that it is one-half (*that is due to him*), and it is in the trunk of the tree of an humble 'nemedh'-person, or in the top of the tree of a noble 'nemedh'-person, that one-half is due to him because they are doubtful bees. He goes to the next division to it by *reason of the* doubt.[1]

If it be *in* a place where many bee-hives[a] are *kept*, that a swarm has flown from each hive, and he (*the claimant*) dares not swear that the swarm is his which he found in the land of the neighbour who is nearest to them all, they (*the neighbours*) all divide between them half the produce of that swarm to the end of three years, the other half of the produce *is due* to the land in which it (*the swarm*) settles, in *respect of* which one dares not *to give* evidence or test that it belongs to any one in particular.

[a] Ir. *Beer.*

If it be *in* a place, i.e. where many *hives of* bees (*a large apiary*) are *kept*. That *a swarm* has flown, i.e. I maintain or insist that a swarm has flown from each hive of them.

That is, there were many hives abroad then, and a swarm escaped from each hive of them, and a swarm of them was found in the land of the neighbour who is nearest to them, and he does not know to which of them it belongs, and they are known bees[2] in the trunk of the tree of an humble 'nemed'-person, one-half is *due* to the owner of the tree, and the other to all the others, who divide it in equal proportions.

Swear that it is *his*, i.e. to swear that the swarm is that which he watched *and traced* into the land of the neighbour who is equally near to them all. They *all* divide, i.e. the neighbours fairly divide between them all the produce of the swarm to the end of three years. The half produce, i.e. the other half of the produce. The land in which it settles, i.e. it belongs to the owner of the land in which it is fixed or settled, i.e. in the top of the tree of a noble 'nemedh'-person, for it is a *case of* doubt; and the produce is divided in two between them to the end of three years, and the owner of the tree shall have them (*the bees*) from that forth. In which one dares not, i.e. they do not presume to proffer evidence of proof or noble testimony of denial that it (*the swarm*) belongs to one of them in particular. Evidence, i.e. from the neighbours.[b] Or test, i.e. from the owner of the top *of the tree*.

[b] Ir. *Co-tenants.*

Bee-Judgments.

Fer fongaib fruth mbech hi faithchi techtai. Isri in faithchi techta la feine ni fo faig guth cluicc no gairm cailig ceicc. Ailid cethramthain a thoraid co cenn mbliadna do fir fodgaib, na teora cethramtain aile do faithchi hi fogbaithes.

Faithchi techta, .i. ind oired fo indraigther gud in cluig do eclais .i. faiche fruite na mbeć. Gairm cailig .i. do bruigaid ocus filed. Ailid .i. airilitnigid fe ceathramthe a thoraid gu ceand mbliadna don in do geib he .i. maine mo na trebaire bliadna uil acu, is ceathramthe dib frithi, ocus mara mo, is leth. Do faithchi .i. do fir na faicthi i. fagabais he.

Tri bruige frig, frot, ocus diriainn, ocus muir. Trian do do nech do cuirithes muir, ocus nomad do a cuit frithe a cele doneoch fogaib a ndiriainn. Dileas do dan do neac fogabais for frot, acht cuit frithe do nech fogaib, man fearfad fear bunaid.

Fear fongaib crann mbech hi faithchi techtai; mad iarmota bliadain, leth do fir fodngaib, leth naill do faithchi hi fogabais.

Fer fogaib fruth mbech in neoch mad rechtar faithchi co ruicce rud mar, no ecmacht, no diriainn, trian do fir fodngaib, da trian do tir hi fogbaiter.

Fer fodgaib fruth mbech hi rud, no dfiriainn, no ecmacht, is dilis doforidiu, ar is oen ruidles la feine, acht cuit naige fine, ocus cuit neclaire frir a mbi audacht, noch isri a cuitride trian ar cach trian, ar

Of a man who finds a stray swarm of[a] bees in a lawful green. The lawful green with the Feini is the space as far as the sound of a bell or the crowing of a hen-cock is heard. The fourth of the produce to the end of a year is due to the man who finds them, the other three quarters to the green in which they are found.

BEE-JUDGMENTS.

[a] Ir. *A find.*

Lawful green, i.e. the space which the voice of the bell reaches for a church, i.e. the green in which the bees are found. The crowing of a cock, i.e. for the 'Briughaidh'-farmer and the poet. Is due, i.e. one-fourth of the produce to the end of a year is due to the man who finds it, i.e. if they have not more than the security of a year, it is one-fourth that is due to the finder, and if they have more, it is one-half. To the green, i.e. to the owner of the green in which it is found.

The three commons of a king are, a road, a mountain, and the sea. The third of what the sea casts ashore *is due* to him, and the ninth part *is due* to him, of his tenant's finding-share of what he gets on a wild place. Whatever is found on a road is his inherent right, unless the original owner is known, except the finding-share (*reward*) to the finder.

As to a man who finds bees in a tree[b] in a lawful green; if it be after a year,[1] one-half *is due* to the man who has found them, the other half to the green in which they have been found.

[b] Ir. *A tree of bees.*

If a man who has found a settlement of bees[c] outside a green in a place that reaches as far as a great wood, or a lake, or a wild place, one-third *is due* to the man who has found them, *and* two-thirds to the land on which they are found.

[c] Ir. *A find of bees*

If a man has found a hoard of bees[c] in a wood, or a wild place, or a lake, it is his own lawful property, for it is one of the innate rights with the Feini, except the share of the head of the tribe, and the share of the church to which he makes his will,[d] whose share is one-third out of every third, for

[d] Ir. *His will is.*

[1] *After a year*; i.e. when the bees have been lodged there for a year.

Bee-Judgments.

na conderbathar eclair na fine dineoch dorailled a membur.

Ni faithchi .i. dar lind ir bilida itad ir an faicdi frea. Mad iarmota .i. mad iaram a aidli na bliadna do gabar he. Leth naill .i a leat eile do fir na faicde i fagabar e, da di ainbligid air a beit bliadain ina [f]aidce gen fagbail do, no gin a cuairt do cur.

In neoch .i. in ni fri mad freadtar aidce do gabar e itir faice ocus dirainn. Rud .i. na caillead no frid. Echmacht .i. in lada. Dirsinn .i. in fleibe. Trian do fir foingaib .i. trian don ir do gaib e. Da trian .i. da trian do ir ind erainn i fagar e.

Trian dir fride and, maine mo na trebaire bliadna, ocus da trian mad iar mbliadain; no, go na beit act trian and do grer, uair ni indfeadnn leabar a deidbir, gid re mbliadain gid iar mbliadain.

Ni rud .i. a cailli. Dfirainn .i. in fleibe. Echmacht .i. in lada .i. loca bel fet. Ir dilet .i. ir dilet don aei feada irin. Ar ir oen .i. uair ir oen do na hearnalib ir fo dilet frin do rein ind fenechair. Acht cuit naige fine .i. act in cuid berer in nogai bir dond fine .i. flaith gelinne a dualgus cennacta .i. in daerrad. Cuit neclaire .i. in cuid ata don eagland ir bir ainderin re uaact. Noch irri .i. feidim cona i cindride. Trian ar cach triun .i. trian a haen trian don cad frin, in nomad. Ar na conderbathar .i. ar na cainduibaidar ind eglar no ind ine do neoch airiltnigid o mbalaib.

Trian a dodaig fridi o daerimanaig eagalra do an eclair, ocus o daeridelib flatha do lait, gu rud no ecmacht no dirainn, ocus ix. mad mad aindride; cetraimide a dodaig o faerimanaig eagalra deaglair gu rud no egmacht no dirainn, ocus aili decmad aindride; ocus nodo nuil ni o faeridelb flatha do lait.

[1] *A year's security.*—That is, if the bees have been there for less than a year, undiscovered.

[2] *No book*; i.e. no original text.

[3] *Loch Belsed*, now Lough Muskerry, in the Galty mountains, and on the south

a church or a tribe are not to be defrauded of what they merit from their subjects.

In a *lawful* green, i.e. we think that they are ancient trees that are in this green. If after *a year*, i.e. if it is after the year it has been found. The other half, i.e. the other half *goes* to the owner of the green in which it is found, if it be legally proved against him that it has been a year in his green without his discovering it, or without his instituting a search for it.

In a place *that it reaches as far as a great wood*, i.e. this is the case when it is found outside a green between a green and a mountain. Wood, i.e. of the wood or forest. Lake, i.e. of the lough. Wild place, i.e. of the mountain. One-third to the man who has found them, i.e. one-third to the man who found it. Two-thirds, i.e. two-thirds to the owner of the land in which it is found.

One-third *is due* in this case to the finder, if there be not more than a year's security,[1] and two-thirds if after a year; or, *according to others*, there is never more than one-third, for no book[2] mentions any difference, whether it be before a year or after a year.

In a wood, i.e. of his forest. Wild place, i.e. of the mountain. Lake, i.e. of the lough, i.e. Loch Belsed.[3] It is his own, i.e. it is lawfully the property of that particular person. For it is one *of the innate rights*, i.e. this is one of the class of things which are innate rights, according to the 'Fenechus'-law. Except the share of the head of the tribe, i.e. except the share which the chief of the tribe obtains, i.e. the 'geilfine'-chief in right of his headship, i.e. the 'daer'-stock. The share of the church, i.e. the share which is due to the church of the man who is making his will. Whose *share* is *one-third*, i.e. I maintain that this is its share. One-third out of every third, i.e. one-third out of every third to him, i.e. the one-ninth. Are not defrauded, i.e. for the church or the tribe should not be defrauded of what they are entitled to receive from their subjects.

One-third of his finding share is due from the 'daer'-tenant of a church to the church, and from the 'daer'-tenants of a chief to the chief, as far as a wood, or a lake, or a mountain, and one-ninth if it is in these *places the swarm is found;* one-fourth of his share *is due* from the 'saer'-tenant of a church to a church, of all things found in the green until it reaches to a wood, a lake, or a mountain, and *it is entitled to* one-twelfth of *a swarm found* in these; but there is nothing *due* from the 'saer'-tenant of a chief to a chief.

boundary of the parish of Templeneiry, barony of Clanwilliam, and county of Tipperary. It is locally believed to be bottomless. For a curious legend concerning it, see *Leabhar Breac*, fol. 111, col. b.

Bee-Judgments.

Canar a ngabar ind aile dec, uair nac indirid líubair? Ir ar gabar, amail ir e trian a codaċ ata o daermanaċ eagalra do eaglair, ocus o daerċeilib flaṫa do lait, gu rud no egmaċt no diraind, ata uaṫaib i rud, cubaid derde gemaḋ he trian na codaċ ita o foermanaċ eagalra da eglair gu rud no egmaċt no diraind, do beiṫ uaitib i rud fon cuma cetna .i. aili deg.

Trian a triun dogrer o daermancaib ocus o daerceilib ar na frithib fogabait i necmact; ar annracht doib in baile ara tucrat ir aire ir bec berar uaitib. Mainip rud no dirainn no ecmaċt, ir trian frithe na ndaermanach do eclair ocus na ndaerceili do laith. Mad raermanach imorru, ir ceathramun frithi fogabait dia neclair mainib rud no ecmaċt no dirind. Mad rud no dirainn, ir in dara rann dec no in cuicid rann dec do eclair, aċt ri. Mad ri imorru, ir trian ar in treot ir uairle fogaib, ocus ceathramu ar caċ feot oicena.

Bech bite illugbart no i liur, cipe fodarothla no fodagatta, dirien re amal bid a treb fornaccad, ar forguidigthi i comdire la feine.

Bech bite illiur no lubart, it comdire fri feotu trebe.

Bech bite i faithche, cipe fodarothla no fodroxla, direnar lan dire. Ro fuidiged fon la feine hi comdire fri a huaral neimthiu cethra.

[1] *As far as a wood.* "Here, let it be remarked," says Dr. O'Donovan, "that the words 'gu rudh,' i.e. 'as far as a wood,' are technically used to express 'things found in the plain,' and 'i rudh,' things found in the wood (*i.e. the wood at the extremity of the plain or green*), a condensation of language not to be matched in any other language." The word 'ecmaċt' may mean 'a difficult place,' though it is once glossed, 'a lake,' in p. 197.

Whence is the twelfth derived, as books do not mention it? It is derived from this, as it is one-third of his share that is due from the 'daer'-tenant of a church to the church, and from the 'daer'-tenant of a chief to the chief *of a swarm found in the green* as far as a wood,[1] or a lake, or a mountain, that is due from them (*of a swarm found*) in a wood, *&c.*, it is right from this that it should be a third of the share that is due from the 'saer'-tenant of a church to his church *of a swarm found in the green* as far as a wood, or a lake, or a mountain, that should be in like manner due from them *of a swarm found* in a wood *alone*, i.e. one-twelfth.

One-third of a third is always due from the 'daer'-tenants of church lands, and 'daer'-tenants out of the hoards[a] which they get in a lake; it is on account of the difficulty of the place from which they brought them, that but little is taken from them. If it be not a wood, or a mountain, or a lake, one-third of the find of the 'daer'-tenants of church lands *is due* to the church, and of the 'daer'-tenants to the chief. But if they be 'saer'-tenants of church lands, it is one-fourth of the finds which they discover *that is due* to their church, if it (*the place*) be not a wood, or a lake, or a mountain. If it be a wood or a mountain, it is one-twelfth or one-sixteenth part *that is due* to the church, except *from* a king. But if it be a king, it is one-third out of the noblest 'sed' which he finds, and one-fourth out of every 'sed' in general.

[a] Ir. *Finds, or waifs.*

As to bees that are *kept* in an herb garden, or in an enclosure, whoever takes away from or steals them, pays *a fine* as if he had stolen them from a house, for they are fixed to the same 'dire'-fine by the Feini.

Bees which are *kept* in an enclosure or herb garden, are of the same 'dire'-fine with the 'seds' of a house.

As to bees which are *kept* in a green, whoever takes away, or carries them off shall pay full 'dire'-fine. This has been fixed by the Feini to be the same[2] as for the noble 'nemedh' cattle.

[2] *The same as.* Literally; "This has been fixed by the Feini as equal 'dire'-fine with the noble 'nemedh' cattle."

Bee-Judgments.

Beich bite rechtar faitche, cipe fodaroxla no fodogata dirinar landirie fo fuidigeð 1 comdirie la feine fri lu cethra.

Bech bite .i. imuig. Illur .i. tall. Cipe .i. im ní de. Rothla .i. ni di criatraib. No rodagatta .i. ime uile na cera. Dirien re .i. eirrid feirdeic eneclann and, amail bid ar in tig fo gatad re iad, im lan dirie, ocus im lan eneclann. Ar forfuidigthi .i. uair fo fuidigeð cutruma eneclainde do rein in einechair ir na becaib bite ir in lir tall.

No lubart .i. no ir in lubgort imuig. It comdire .i. it cutruma frin im eneclann fir na fedaib bir aige ina dig, amail cleite na nectrand 1 maigin co na gabail for faeram ir fir.

Bech bite 1 faithche .i. dia mbeathugad bearar amach a claide no a muine .i. 1 maigin digona .i. leth eneclaind innta la lan dire. Rothla .i. im ní de criatraib. Fodroxla .i. ime uile. Direnar lan dire .i. iaid re lan eneclann im cethrad, a ceathair 1 naen ocus leitheneclann. Landire .i. cethre a naen. Ro fuidigeð .i. fo fuidigeð iadfide do rein into einechair 1 cutrumur eneclainde fir na ceathraib uairle no ir luga bir ag a neimed uaral im leth eneclann. Ni comdire .i. lan intib a maigin.

Sechtar faitche .i. re dechenear beor fo cuired amach iat Fodroxla .i. im ní de, no dia criathraib. No rodagata .i. imí uile. Direnar landire .i. iaid re lan eneclaind intu im cethrad .i. cethre a naen. Ro fuidigeð .i. fo fuidigeð iad 1 cutrumur eneclainde da rein into fenechair frin ceathra ir lu a maigin im leth-eneclaind intu .i. cairig a tri intib, ocus .uii.mad neneclaindi .i. lan eneclann ir na beathaib 1 lir, ocus 1 lubgort, ocus 1 faigthi, ocus leath 1 maigin, ocus .uii.mad reachtar maigin.

Mar a lir no a lubgort fo gataid na beich, ir lan eneclann; mar a faichi, ir leth eneclann; mar a reachtar faithe, ir uii.ad neneclaindi, gid maigin frin gid rechtar maigin, gid cutrumur lui gid cutrumur clethe. No, dan cena, achd mar a maigin, ocus ir cutrumur cleithi ir lan eneclaind. Mar a chutrumur lui, ir leith eineclaind. Mar a reachtar maigin ocus ir cutrumur clethe, ir leth eneclaind. Mar a cutrumur lui, ir uii.ad neneclaindi, ocus ceithri cera dirri, ocus ceir aithgeana in cach ceraig in cach inut dib fein.

[1] *Abroad.* 'Imuig,' here and elsewhere may mean, 'in an open field,' as distinguished from an enclosed place.

As to bees which are kept outside a green, whoever carries them off or steals them shall pay the full 'dire'-fine, which has been fixed by the 'Feini' to be the same as for the small cattle.

Bees that are *kept* i.e. abroad.[1] In an enclosure, i.e. within. Whoever *takes away*, i.e. as to any part of it. Takes away, i.e. a part of their combs. Or steals, i.e. as to all the hives. He pays, i.e. he pays honor-price for it, as if it were from the house he had stolen them, as to full 'dire'-fine, and full honor-price. For they are fixed, i.e. for equal honor-price was fixed according to the 'Fenechus'-law for the bees which are in the enclosure within.

Or herb garden, i.e. or in the herb garden outside. Are of the same 'dire'-fine, i.e. they are equal as to honor-price to the 'seds' which he has in his house, such as the prime beast of externs taken into a precinct under protection and *with thy* knowledge.

Bees which are *kept* in a green, i.e. which are brought out for feeding to a mound or a shrubbery, i.e. an inviolable place, i.e. half honor-price *is due* for them with full 'dire'-fine. Takes away, i.e. as to any part of the combs. Carries off, i.e. as to them all. Shall pay full 'dire'-fine, i.e. he shall pay full honor-price as to four things, from four to one, and half honor-price. Full 'dire'-fine, i.e. four to one. Was fixed, i.e. these were fixed according to the 'Fenechus'-law to the same proportion of honor-price as the noble cattle or the smaller cattle belonging to the noble 'nemedh'-person with respect to half honor-price. The same, i.e. full '*dire*'-*fine* for them in an inviolable place.

Outside a green, i.e. these were also sent out through necessity. Whoever carries them off, i.e. as to any part of it, or of their combs. Or steals them, i.e. as to the whole. He shall pay full 'dire'-fine, i.e. he shall pay full honor-price for them as to four things, i.e. four to one. Which has been fixed, i.e. they were fixed in the proportion of honor-price according to the 'Fenechus'-law to the smallest cattle in a precinct with respect to half honor-price for them, i.e. sheep as far as three for them, and the seventh of honor-price, i.e. full honor-price for the bees in an enclosure, and in an herb garden, and in a green, and one-half in a precinct, and one-seventh outside a precinct.

If the bees are stolen from an enclosure or an herb garden, it (*the penalty*) is full honor-price; if it be from a green, it is half honor-price; if from *a place* outside a green it is one-seventh of honor-price, whether that be a precinct or outside a precinct, whether equal to small or equal to large cattle. Or indeed, *according to others*, if it be from a precinct and in proportion to large *cattle*, it (*the penalty*) is full honor-price; if in proportion to small *cattle*, it is half honor-price. If from outside a precinct and in proportion to large *cattle*, it (*the penalty*) is half honor-price. If in proportion to small *cattle*, it (*the penalty*) is a seventh of honor-price; and four hives as 'dire'-fine and one hive as compensation, *are due* for every hive in every instance of these.

Bee-Judgments.

Bech tetechta fer fodacoirle di maigin infuidigthar, fo teol ocus taide, frochrintar fair, ni imdich cia bech cuit do indib; dirien re de fo choibne co tabar techte di magin dian da foxlaiter.

Ir forrund fo fuidigthi bech brethа la feine.

Oech tetechta .i. beic teaċtait aid no áit. Fer fodacoirle .i. fer foxlar leir iad dan inaḋ i fuidigter iad. Fo teol .i. toigleámana gaidi bunaiḋ. Taide .i. diċelta iartain. Rochrintar .i. ocus da rintar air e. Ni imdich .i. noċon eimdidnend gein fiaċu gaide uaid ge beit cuid do intib, co na nercaire, ma ruc amach iat gan fir dir in ferann, gid ler fen iat, no co tucċa in roind bud coir orro. Dirien re .i. eirnid fride fiaċ gaide and fo cobintiur amail na beaċ cuid do intib, co na nearcaire. Co tabar techte .i. co tabair, re a dligeḋ dir ind eraind o foxlaiter iad [.i. g. nigend re].

Ni nimdich ge beit cuit do indib; in aithgin ocus lan dire leo uile a etrocar. Mad troccar imorro, ir dilri a cota fen do, ocus do fen lan dire la cuit in fir aile; no gin dire uad la cuit fen, ocus ir lan dire uad la cuit ceili.

Duini fuarartir fridi beaċ and fin, ocus fiaċ gaidi ata intib, uair na dearna a nergairi, ocus da nergairied iad, da biad cuidig fridi do.

1 *From which they have been taken away.* The Irish enclosed in brackets, at the end of the words thus translated, is in the MS., but it is unintelligible.

As to a man who takes away settled bees from the precinct where they are settled, by larceny and theft, *when* it is found out against him, it shall not shelter him that he has a share in them; he pays in proportion until he has given what is lawfully due to the precinct from which they are taken away.

It is on this bee-judgments have been based by the Feini.

Settled bees, i.e. bees that have taken possession of a lodging or place. A man who takes away, i.e. a man who takes them away with him from the place in which they are fixed. Larceny, i.e. this is original theft. Theft, i.e. hidden afterwards. It is found out, i.e. if it be known respecting him. It shall not shelter him, i.e. it shall not shelter him from the payment of fines for theft, even though he should have a share in them or be the owner of them himself, and that he has made proclamation respecting them, if he has taken them out without the knowledge of the owner of the land, or until he shall have made the just division of them. He pays, i.e. he pays fines for theft at the same rate as if he had no share in them, and had not given notice. Until he has given, i.e. until he has given his due to the owner of the land from which they have been taken away.[1]

It does not shelter him that he should have a share in them; restitution and full 'dire'-fine for them all[2] is the severity *of the law in this case.* But if leniency *be allowed,* he has full right to his own share, and he pays full 'dire'-fine with the other man's share; or, *according to others,* he pays no 'dire'-fine for his own share, and full 'dire'-fine with his neighbour's share.

This is the case of a man who has discovered a find of bees, and fines for theft *are due* for them, because he did not give notice, for if he had given notice of *his having found* them he would get a finder's share.[3]

[2] *For them all;* i.e. for all that he took away, for his own as well as for his neighbour's.

[3] *A finder's share.*—The tract ends imperfect here. A fragment of a glossary on the subject of bees, supposed to be a part of the Senchus Mor, will be found in the appendix. For the mode of taking bees in distress, *vide* Ancient Laws of Ireland, vol. 2, p. 121, and for sundry regulations as to injuries done by and to bees, *vide* vol. 3 of the same work, pp. 433–439.

COLUMBIA UNIV.

RIGHT OF WATER

coibniuſ uiſci.

Right of Water.

Coibniuſ uiſci toiſiſone hi ſinteḋaib ḟſiain araſa taiſſiniḋeſ; ar iſſe coibniuſ uiſce taiſiſone la ſeine. Tiſ ara toiſiſniṫheſ ar iſeḋ on aileſ cach ceṫ la ḋeolaiḋ ſech na cſicha olchena, air ni conſeſ caṫ e bunaḋ ino uiſce, aċt a tiſ ara taiſiſniṫheſ; iſſ aſuiḋiu ſſiſſ-ſiſenḟaṫaſ na la aile ḋaſ tiſ tiſe beſſḋa neſſom; iaſſuiḋiu, ḋo ṫeṫ inḋſine ar beolu ḋeiſḃſine, ar iſſi innſine . ſinteḋaiḃ ḟſiain a tiſ i ſuiſſiṫheſ; ar iſſuiṫhiu la ſeine in ſoeſſam anḋſen ólḋaſ a tiſ ar a taiſiſniṫheſ, air iſſeḋ aileſ ṫſi la ḋeolaiḋe ſech na cſicha olchena, amal beſ ſoeſſma. Ar aṫa ſoeſſam la ſeine naḋ aili[ḋ]aċht ṫſi ſoeṫu ar a cuſu bel, ſo biṫh nanḋaſu ḋichenḟlaḋ coſ mbel inneoch maſalataſ ceni ḋo ſacbail leo neoch maſalataſ, aċht noe cuſu aṫhaṫhaiṫhbeċta la ſeine, cia ſaiṫeſ, hiṫeiſiḋe na ḋaleṫ ſine. Sine ſoḋaſoccair ſouiṫh ſſiſ na ḋaḃſuiḋ ſochaiḋe, ar ni ṫechṫa nach ſoeſſam ar na ṫeḟaṫ ſiaṫha ſine, ocuſ naḋ ſoſnḟaſa aiḟe ſine; ar ḋichenḟlaiṫeſ cach choſ cen ſaiṫh ſine la ſeine.

[1] *The three nearest lands.*—See O'D., 1025 and 1028, for a more distinct reference to these divisions of the tribe lands. The word translated three here, as the sense requires, was written originally in the M.S. 'tiſ,' but the i has been obliterated.

[2] *Nine contracts.*—For the regulations on the subject of contracts, *vide* The 'Corus Bescna,' in vol. 3 of The Ancient Laws of Ireland.

RIGHT OF WATER.

Right of Water.

There is equal right to the water drawn through the tribe lands *due to the lands* out of which it is drawn; for thus the right of drawn water is adjusted[a] by the Feini. The land out of which it is drawn is entitled to have each first day (*i.e. Monday*) gratis in preference to[b] the other districts in general, for it is not known where the source of the water is, except *that it is assumed to be* the land from which it is drawn; after this the remaining days are distributed over the three nearest lands;[1] after this, the 'innfine'-land goes before the 'deirbhfine'-land, for in tribe lands the 'innfine'-land is the land in which it (*the water*) is detained *in a pond*; for the land in which it is detained is nobler with the Feini than the land out of which it is drawn, for it (*the pond lot*) is entitled to three days of gratuity in preference to[b] the other lands, like the custom of 'foessam.' For there is a 'foessam' with the Feini that does not deserve but three 'seds' for his verbal engagement, on account of the difficulty of dissolving a verbal engagement by which, when perfected, anything was or was not left to them, except *in the case of* nine contracts[2] which are dissolved by the Feini, though it is said, these are they whom the tribe does not recognise. The tribe proclaims them because the many do not approve of them, for no 'foessam' is lawful which is not supported by sureties of the tribe, and which is not proclaimed by the head of the tribe; for every contract is dissolved by the Feini which has not[c] surety of the tribe.

[a] Ir. *This is the.*

[b] Ir. *Beyond*

[c] Ir. *Without.*

Right of Water.

Coibniuſ .i. ata coibinſiuſ no comducuſ don ine iſin uiſce tairngiſiſ and, a dualgus ind eanaind dar tairgiſiſ e. Ar iſſe coibniuſ .i. uair iſe coibinſiuſ no comducuſ ind uiſce tairgiſiſ and do neiſ ind fenechair. Ar ised on ailer .i. uair iſiſide ainiltnigser in ced la di indeolaidcaire feac na fearanda oldeana. Ise cuid in deolaid, nocon eigen di crandcur. Cach cet la deolaid .i. ced log do ar dus .i. deolaid leis araba in duiſce do tabairt ar, no, iſe cuit a deolaid, nocho necen a tacal. Cis ni conſer .i. uair noco near cait. imi bunaid eile icon uiſce acht in fearand ara tairgiſiſ e .i. ar in tobur. Iſſ aruidiu .i. is ara nai eada iſin dreimnigser na laidi da luct na dri fearand is nesu doib .i. iar tabairt laithe do dopur. Iarſuidiu .i. iar tabairt luain do dopur. Do tet indſine .i. ar iarine .i. in lind. Ar beolu .i. ria tiſib no in tiſ o tobur gu lind. Deiſbſine .i. in lind. Ar iſſi indſine .i. air is in cormailiur na indini ar iarini i finnduidcib ind fearand. Tis i fuiſſiſiher .i. fearand i fuiſidnigsiſ .i. in lind, in duiſce. Ar iſſuithiu .i. uair is uairli da reis ind fenechair in fearand i fuiſnider no i fothaigser. In foeſam and en .i. in lind. Oloar a tis .i. oldar in fearand dar a tairngiſiſ e in dise o tobur co lind. Cis iſſed ailer .i. uair isi fin aſiltnigser dri la di indcolaidcairi feac na fearanna eile ceana. Ise cuid in deolaid. Cmal ber .i. amail ber in mic foeſma. Ar ata foeſſam .i. uair ata mic foeſma da naisneisend in fenechur, ocus noco naisiltnigsend fe acht dri feotu .i. dri ba ar dreabaire gu coir o belaib o fidgaib co na comgnadaib da mic foeſma da geiline no da deiſbine dar braigid find ocus dar fodmacc fealba in feanoir .i. foeſam gnaid flaith dar braigit find ocus dar ceann forcraide fealba. Fobith .i. fon fat nocon usuſa gein ni da ceangal don ti fuiſi tabair dreabaire gu coir o belaib. Inneoch .i do neoch fin mar a cuiſed e. Ceni .i. gen ni dagbail acu co na macaib foeſma. Neoch i. dinneoc fin mar a cuiſed e .i. mada isin lisiſ. Acht noe cusu .i. ar na hulib coraib is taitmecta .i. cor mogu, cor manaig, cor mic beoathar, cobce do baed, cor baith fri gaet, cor da bán gin a cele, cor doſce, cor merce, cor omna. Cia raiter .i. cia imraiter iad. Nitesiſde .i. is iad fin ocus nocon ada lenar inn ini iad ma fartad. Fine fodaſoccair .i. bid indi find ga friſdgna. Fouith .i. fon fat bid in fodaide ga friſdnud corraide a taitmed. Ar ni techta nach foeſſam .i. uair noco dliged lin in mac foeſma da gabail imuid maini decrad dreabairi don ini fuiſ im log na gaire do tabairt do. Nad forngara .i. mana rab in togai bis don ini ga forcongor. Ar dichenglader .i. cin nar ceangailter gad cundad gein dreabairi and da reis ind fenechair.

[1] *The force of gratis is.* The remainder of this explanation is lost.

RIGHT OF WATER.

There is equal right, i.e. there is equality of right or inherent right due to the tribe in the water which is drawn, in right of the land over which it is drawn. For thus the right is adjusted, i.e. for it is the equality of right or inherent right to the water that is drawn *that is here treated of*, according to the 'Fenechus'-law. Is entitled to, i.e. for it is this *land* that deserves to have the first day gratis (*i.e. by way of privilege*) before the *other* lands in general. The force of 'gratis' is that it is not obliged to cast lots. Each first day gratis, i.e. it is entitled to every price first, i.e. it is gratis to it on account of the water being led from thence, or, the force of the 'gratis' is, it is not necessary to dig for it. For it is not known, i.e. for it is not known where there is another source for the water except in the land out of which it is drawn, i.e. from the well. From which, i.e. it is from this particular thing the *other* days are distributed to the people of the three lands that are nearest to them, i.e. after giving a day to the well. After this, i.e. after giving Monday to the well. The 'innfine'-land goes, i.e. before the 'iarfine'-land, i.e. the pond. Before, i.e. before the lands or the land *extending* from the well to the pond. 'Deirb-fine'-land, i.e. the pond. For the 'innfine'-land, i.e. for after the likeness of the 'innfine'-lands to the 'iarfine'-lands are the divisions of the tribe land *with respect to the water*. The land in which it is detained i.e. the land in which it is gathered, i.e. the pond, the water. Is nobler, i.e. for the land in which it is gathered or detained is nobler according to the Fenechus. Is detained, i.e. the pond. Than the land, i.e. than the land over which it is drawn, i.e. the land *extending* from the well to the pond. For it is entitled to, i.e. for it is this that deserves to have three days gratis before the other lands in general. The force of gratis is . . .[1] Like the custom *of 'foesam,'* i.e. like the custom of the adopted son. For there is a 'foesam, i.e. for there are adopted sons of which the 'Fenechus'-law makes mention, and they[a] do not deserve but three 'seds,' i.e. three cows, for proper security from kings and persons of the same grade with them, for the adopted sons of their 'gelfine'-division or 'derbhfine'-division in contravention of the tribe and of the increase of the old man's property, i.e. the 'foesam' of a chieftain grade in contravention of the tribe and for the increase of the property. On account of, i.e. because it is not easy not to fasten a thing upon the person to whom security is given properly by word of mouth. By which, i.e. by which according as it was put. Without any thing, i.e. without their leaving anything to their adopted sons. Which, i.e. according to that thing as it was put, i.e. if in the writing.[b] Except nine contracts, i.e. all the contracts which are dissolved, i.e. the contract of a bondman, the contract of a 'manach'-person, the contract of a son whose father is alive, a nuptial-present to a harlot, the contract of an idiot with a sane person, the contract of a wife without her husband, a contract in the dark, a contract of drunkenness, a contract of fear. Though it is said, i.e. though they are mentioned. These are they, i.e. these are they which the tribe does not deem lawful to keep. The tribe proclaims, i.e. the tribe truly proclaims them. Because, i.e. because the many insist that it is proper to dissolve them. For no 'foesam' is lawful, i.e. for we do not deem it lawful to take any adopted son outside unless sureties of the tribe are given with him that the price of maintenance will be given for him. Not proclaimed, i.e. unless the head of the tribe proclaims him. For *every contract* is dissolved, i.e. that no contract is made binding without security for it, according to the sense of the 'Fenechus'-law.

[a] Ir. *He.*

[b] Ir. *Letter.*

Right of Water.

Inge .uii. nuaral churu nadat aru do thaithbiuch neoch ma rolathar; tabert rig, tabairt ersoc, aert ar a[n]muin, tabeirt filech, commuin athar ocus a meicc, comtus cacha lamna, ni do beir flatha dia cele, set tuschlaithe no rath dalraidig, no tuscreicc dian airbiathar.

Ni meiccditer fir nime ocus forcela Crist, ar dlegair do cach deorad de raigid a nadma forraid, amal adrogerta ind, no do dicred a chelebrad aire.

Inge .i. ar act na.uii. cusu uairli ocus nocon urusu a taitmeach. Ma rolathar .i. madia rolaeiter iad. Aert .i. in ni udbrar neach ar anmain, Tabeirt filetb .i. tabairt do berar don lid. Tabarta dligteaca sin. Commuin .i. na maene cumtar itir in mac ocus in athair da comluigdib. Comtus cacha lamna .i. in cumaid do comloigib uair bis itir in lanamain do comloicib. Set tuschlaithe .i. in set do bearar ar clodbtar. Rath dalraidig .i. in rath da berar ein ein raindig, ar ind imarcraid biata ocus mancaine. Tuscreicc .i. no in creic doridneach rata dia nuaralbiatar in flaith.

Ni meiccditer .i. ni ingeircetus. Fir nime .i. muintir nime. Ar dleagar .i. uair dleagar do gach deoraid de indraigid a narcairdeacta fris. Amal adrogerta .i. amail do rognitea e fein ind, ir amlaid dlegar de a tobach, gin gu habairter fir. No do dicred .i. no do digred a labra ciallaide aire.

Cain cach uisci thairidne la feine. Fristolengar a tir ar a tairidnitir, ocus insuidigithir. Ar atat .iii. caine nad chumgat comarbai do chumscuchud dianar damat a nathair fria naimsin; cain cach uisce tairidne, ocus cain inbir, ocus cain drochit; air ithe teora trebuire in sen nadrithrolat [ele, no na cumgat comarba do cumscugud] comarbai

[1] *Husband and Wife.* The term 'lamna' or 'lanamna' signifies in modern Irish "a married couple." In the ancient Irish Laws it had a much wider meaning. *Vide* Ancient Laws of Ireland, vol. 2, p. 343, *et seq.*

[2] *Overplus food stock.* *Vide* Ancient Laws of Ireland, vol. 2, p. 263, for explanations of this, and also of the terms "returnable 'seds,'" "proportionate stock."

Except seven noble contracts which it is not easy to dissolve, if they have been perfected: a gift to[a] a king, a gift to[a] a bishop, an offering for one's soul, a gift to[a] a poet, the reciprocal gifts of a father and his son, the mutual gifts of each husband and wife,[1] the thing which a chief gives to his tenant, i.e. the returnable 'sed' or the overplus food stock,[2] or the proportionate stock for which he is supplied with provisions. RIGHT OF WATER. [a] Ir. *Of.*

The men of heaven and of the gospel of Christ are not excepted, for every pilgrim is bound to oppose them *(the contracts)* as if he *himself* had made them, or his word of wisdom had passed about it.

Except, i.e. but except the seven noble contracts, which it is not easy to dissolve. If they have been perfected, i.e. if they have been actually made. An offering *for one's soul*, i.e., what one offers for his soul. A gift to a poet, i.e., a gift which is given to the poet. These are lawful gifts. Mutual gifts, i.e. the property mutually given between the son and the father as adjustments. Mutual gifts of each husband and wife, i.e. the equality of noble gifts which is between the married couple, as adjustments. The returnable 'sed,' i.e. the 'sed' which is given to be returned. Overplus food stock, i.e. the stock which is given for the increase, for the excess of food and labour. The proportionate stock, i.e. or the relieving fee of the stock for which the chief is nobly supplied with food.

Are not excepted, i.e. no exception is made. The men of heaven, i.e., the people belonging to heaven (*churchmen*). Is bound, i.e. for every pilgrim is bound to oppose their security. As if he *himself* had made them, i.e. as if he himself had made them, it is thus he is bound to levy although it is not told him. Had passed about it, i.e. as if their speech ('labra') of wisdom ('ciallaibe') was concerned about it.

Of the 'cain'-law of each water which is drawn, according to the Feini. It is regulated according to the land out of which it is drawn, and *that* in which it is settled *(ponded)*. For there are three 'cain'-laws which the 'coarbs' cannot alter[3] if their fathers had consented to them in their time; the 'cain'-law of each water conducted, and the 'cain'-law of the dam, and the 'cain'-law of the bridge; for these are the three laws which the 'coarbs' can-

[3] *Cannot alter.* The words in brackets in the Irish are found on the left-hand margin of the MS., and appear to be another mode of expressing the statement in the text.

Right of Water.

Dianar damat aithir ocus senathair fri amsein neoch. Mad rodmaiter, a mbith samlaid co brath, im deolaid fa log nach dligthir, a sein bruthemon.

Cain cach uisci .i. riagail in nuisce tairngidir and do sein ine eneclais. Frisorengar .i. fisrosreimnigter da lucht na seanand dara tairngiter e .i. in torar. A tir .i. mir ó torar co lind. Indruidigither .i. in lind, Ar atat .i. uair atad teora riagla nad cuimgeb nà comedaide orba du cumgugud acht co tartar luag doib. Dianar damat a nathair .i. dia rabad a nadair ocus a seanadair ina roaididen frisa naimsir. Cain cach uisce .i. riagail ine uisci tairngidir and. Cain inbir .i. riagail inbir na corad, no riagail inneich bis in inde bera na corad. Cain drochit .i. riagail in droicid. Air ithe .i. uair is iad sin tri neich tseabarna na fisadcuired na comedaid orba. Dianar damat .i. dia rabad a nadair ocus a seanadair ina roaididen, ocus se bodein. Fri amsein .i. iubaile iar trebuire so, ocus ni fertar cia cana cet racha frisi. Mad rodmaiter .i. ina neich sin madia rabad ina roaididen neoch dleagar. A mbith samlaid .i. seichim no indraigim gu ndlegar a mbeith aithaid sin. Im deolaid .i. gid in aigid. Fa log .i. gid log da berthar da cind. Nach dligthir .i. seichim no indraigim gu ndlegar a mbeith aithaid sin, da rein in bretheaman.

Ma rabar ina aididin sin co tairnig a nenaith ar in seanand .i. cora eirc, is a noilsi dogner o sein amach, ocus a mbeith amail cach ruidiud iar trebuire. No dna, ceana, is re ruidarta do riagail riu; ma rabar ina aititin re re trin, is a noilsi o sein amach. Acht mani raib mac in treas sean dib re mar aen re athair ina aititin, ina econach, ocus ma ro bai, noco ba dlegar iad dogner no co raib in comat sin ina aititin iar diachtain ceille cothaig.

Dligid cach comaithech diarraile tuididen urce thairidine tar a crich, ineoch ma fochrechther, ro ruidiged a fochraicride for feoit deich screbul dar cach mbrug do taet neoch. Mad eatam, geni gaba acht lechgabail de, dirnenar in chruth so. Mad ainmin

not change, if their fathers and grandfathers had consented to them for a time. If they have been *so* acknowledged, it is right that they should remain[a] so for ever, gratis or for payment, according to the Brehon.

[a] Ir. *Be.*

Of the 'cain'-law of each water, i.e. the rule of the water which is drawn, according to the 'Fenechus'-law. It is regulated, i.e. it is proportioned on the people of the land over which it is drawn, i.e. the well. The land, i.e. the extent from the well to the pond. It is settled, i.e. the pond. For there are, i.e., for there are three rules which the heirs to the land[b] cannot change, so as that value is given them. If their fathers had consented, i.e., if their father and grandfather were in acknowledgment of it in their time. The 'cain'-law of each water, i.e. the rule of the water which is drawn. The 'cain'-law of the weir, i.e. the rule of the river-mouth or of the weir, or the rule of the thing which is on the top of the stake of the weir. The 'cain'-law of the bridge, i.e. the rule of the bridge. For these are, i.e. for these are the three secure things, which the land-heirs[b] cannot set aside. If *their fathers* consented, i.e. if their fathers and grandfathers were in full acknowledgment, so shall they themselves. For a time, i.e. this is a lapse of time after security, and it is not known what 'cain'-laws should be first applied to it. If they have been *so* acknowledged, i.e. if these things have been acknowledged, it is right, *&c.* They should remain so, i.e. I maintain or insist that it is right to have them so. Gratis, i.e., though for nothing. Or for payment, i.e. or whether price is given for them. It is right, i.e. I maintain or insist that it is lawful that they should remain so, according to the Brehon.

[b] Ir. *Keepers of the land.*

If these were recognised until the completion of their erection on the land, i.e. a fishing weir, *&c.*, they are lawful ever after from that out, and they shall be like every prescriptive right after security *has ceased.* Or else, *according to others*, they are to be regulated according to the period of prescription; if they were recognised during the lives of three persons, they are lawful from that forth. But if the son of the third man did not acknowledge them jointly with his father, he being an infant, and in case he was so, they shall not be lawful until he shall have acknowledged them for the same period after he has come to the age of reason.[c]

[c] *The sense of a sensible adult.*

Every cotenant is bound to permit the other (*co-tenants*) to conduct drawn water across his border, and if it be purchased, its price is fixed to a 'sed' worth ten 'screpalls' for every farm over which it is carried. If it be arable land, though it (*the water*) should pass through only half a step of it, it shall be paid for after

Right of Water.

imorrus, ir let fet inna log fide, alaile ir la cacha tire do tet dlegar aire.

Ataat .iii. tire la feine tar nach arra doairceathar uisce, nemed cille, no duin, no a maigen firt.

Ataat tri tire aile la feine na dlegat fochraicc, nach atherrom direnat tuididin tairriu; tir inid taidle muilenn, co tabair torad; treb oc na bi usce ar da fogna co tairidnitheir feicce, co mbi uisci neire arad fogna; clad bir far conidlina tola nuisce.

Dligid cach comaitheach .i. dligid caé comaitéaé da éeili targud ind uisci tairngiter and dar in fearann; ocus ir e frin in dara hinad ir in berla i nuraileann dligeó ar duine a fearann do reic cin cob ail leir. Ineoch .i. ini frin madia ndeicennaigter e gur an creic loige ita do reir dligid ir and ir eicean a reic a focraic tecta. Ro fuidigeo .i. fecim no imoraigim ro fuidigeó a deicreic loigi fride for fed .x. ferebaill caéa eararnd dara teid re. Neoch mad eatam .i. ir and ata frin. Geni gaba .i. gein gu gaba re acht leaétingabail de .i. in carceme throig gu ceatramthe throiged, uair da traigid gu leit re in ceim imraic. Direnar .i. eirnitter e fon ngne fed. Mad ainmin .i. mad ainetam. Ir let fet .i. .u. ferubaill ina log fride .i. let na ndeé ferebaill. Allaile .i. gne aile, ir la gaéa fearann dar a teid re dleagar aire in tan ir cuairt muilenn.

Dar nach arra .i. dar nad uru in tuirci da tarraing. Nemed cille .i. in feleg. No duin .i. lar duini in rig. No a maigen .i. feart aeibind ind oenaig, no aibinn, no aiminn.

Na dlegat .i. na dlegaid deicreicc loige doib. Nach atherrom .i. reiéim no imoraigim gonad iadrum deicennaigeradar rainig tarru, ocus ir e ceannaé da beraid air a legod feocu gen log. Tir inid taidle muilenn .i. ceand muilind, co tabair a torad .i. imad uisce. Co tabair torad .i. gu tobair a dorad do uisce do legod cuigi .i. do iarc. Treb oc na bi usce, .i. teach gur na bi uisci, riam fograr aca uaral fognam. Ar da fogna .i. co fuice frin .i. tir i mbi muilenn

[1] *Rotation*, i.e. every one getting his proper time to grind in his turn.

this manner. But if it be unprofitable[a] land, half a 'sed' is its price, otherwise it is a day *at the mill* for every land over which it passes that is due for it.

RIGHT OF WATER.

[a] Ir. *Rough.*

There are three lands, according to the Feini, over which it is not easy to conduct water, the 'nemed'-land of a church, or of a 'dun'-fort, or in the precinct of a fair-green.

There are three other lands, according to the Feini, which are not entitled to price, and for which nothing is paid for conducting water through them; land on which a mill stands, so that it yields produce; a house which has not water to serve it until it is led to it, so as that it has water to serve it; a trench which is empty until floods of water fill it.

Every co-tenant is bound, i.e. every person is bound to allow his co-tenant to draw the water which is *required to be* drawn across the land; and this is the second instance in the 'Berla'-speech, where the law commands a person to sell his land though he should not like to do so. If it *be purchased*, i.e. if this be purchased for the price which is *prescribed* according to law, it must then be sold for the lawful price. Is fixed, i.e. I maintain or insist that its price is fixed to a 'sed' worth ten 'screpalls' for every land over which it passes. If it be arable land, i.e. it is then it is so. Though it should pass, i.e. though it should pass but across half a step of it, i.e. the step of a foot and a quarter of a foot, for the lawful step is two feet and a half. It shall be paid for, i.e. it is paid for after this manner. If unprofitable, i.e. if not arable land. It is half a 'sed,' i.e. of which the value is five 'screpalls,' i.e. half the ten 'screpalls.' Otherwise, i.e. another version, it is a day for every land across which it passes that is due for it when it is a rotation[1] of a mill.

Over which it is not easy, i.e. over which it is not easy to draw the water. The 'nemed'-land of a church, i.e. the cemetery. Or of a 'dun'-fort, i.e. the area of the 'dun'-fort of a king. Or in a precinct, i.e. the delightful, or pleasant, or agreeable land of the fair.

Are not entitled, i.e. which are not entitled to fair price of value. For which, i.e., I maintain or insist that it is these that purchase what passes across them, and the purchase-price which they give for it is to let it (*the water*) pass over them without any price. Land on which a mill stands, i.e. the head of a mill, so that it yields its produce, i.e. much water. So that it yields produce, i.e. so that it yields its produce for letting the water *be conducted* to it, i.e. of fish. A house which has not water, i.e. a house to which no water flowed before to serve it nobly. To serve it, i.e. until then, i.e. land in which there is a mill

Right of Water.

can uisce co tairngitheir feda feird do. Co tairidnitheir .i. có tairngiter feadu e. Combi uisci .i. conad he in tuisci sin fognar i. Clad bis far .i. cein uisci and. Conidlina .i. co linand imad uisci e.

Oct la dec comlana isin i cuairt muilinn. Luan do dobor, mairt do lind, cedain is dardain do faerraib, oendiden ocus fadarnd do richnam. Luan athesrad do lind, mairt o dobor go lind, cedain ocus dardain do faerraib, oendiden ocus fadarnd do richnam. Luan do lind, mairt o lind sis, cedain ocus dardain do faerraib, oendiden ocus fadarnd do richnam. In tan is cuairt sin. In tan is log imorro, is fesbaill for tabor, ocus a ded o dobor go lind, ocus deic fesbaill fichet for lind, ocus a ded o lind sis, conad tri ficid fesdeabaill uile sin, mad eadain; mad andeadain is a lead .i. u. fesbaill for tobor, ocus a .u. o dobor go lind, ocus a u. deg for lind, ocus a .u. o lind sis, conad .x. fesbaill ficed uile sin.

Cid fodessa conid cutruma for na feadandaib in tan is cuairt, geimmeda lind, ocus nocu cutruma ossa in tan is log. Is e in fad fodessa, a fogla tugad deadaib na feadand in cuairt da biad doib, no in log, ocus is i fogla fugradar cuairt: trian da dib ocus gur na headmailib bide malle ria, ocus trian do elaidain fair, ocus trian do biud ocus do borbrichum .i. a .u.ed cectar de.

Luan do dobar, toradh nglind,
In mairt ina diaid don lind,
Cedain dardain, dail in raid
Ac tabairt da na faerraib.
Aine agus fadarnd, feol nglan,
Iread ro raig a frichnam,
Is i sin, sid go mbail,
Ac cuid coir dan cetfeadtain.

Luan agus mairt, meabair mbind,
Do na tiprib gur un lind,
Agus o da in lind amad,
Nir toraim a nadarach.

[1] *Eighteen days.* This commentary and the verses following it are found on the top and bottom margins of page 26 of the MS. H. 2, 15. (T.C.D.)

without water until it is conducted to it for its good. Until it is led to it, i.e. until it is drawn past it. That it has water, i.e. that it is that water which serves it. A trench which is empty, i.e. without water in it. Until filled, i.e. until much water fills it.

Eighteen days[1] complete are in the rotation at the mill. Monday *is due* to the well,[2] Tuesday to the pond, Wednesday and Thursday to the artisans, Friday and Saturday to attendance. The next Monday *is due* to the pond, Tuesday from the well to the pond, Wednesday and Thursday to the artisans, Friday and Saturday to attendance. Monday *is due* to the pond, Tuesday from the pond downwards, Wednesday and Thursday to the artisans, Friday and Saturday to attendance. This is when it is rotation. But when it is *a case of* price, it is ten 'screpalls' *that are charged* on the well, and ten *on the land* from the well to the pond, and thirty 'screpalls' on the pond, and ten on the *land*-pond downwards, all which amount to sixty 'screpalls,' if it be arable land; if it be not arable land it is one-half of this, i.e. five 'screpalls' on the well, and five from the well to the pond, and fifteen on the pond, and five from the pond downwards, all which amount to thirty 'screpalls.'

What is the reason that it is equal amount that is upon the lands when it is a rotation, excepting the pond, and that it is not equal amount when it is price (*i.e. money that is paid*)? The reason is, the men of the lands got their choice whether they would have rotation, or pay price, and the choice they took was rotation: one-third goes to the land and the things which belong to it, and one-third to the science of the artisans, and one-third to food and to rude labour, i.e. a sixth to each.[3]

Monday to the well, a pleasant deed,
Tuesday following to the pond,
Wednesday, Thursday, prosperous assignment,
Are given to the artisans;
Friday and Saturday, fine the arrangement,
Are assigned to the attendance,
This is the peaceable ordering,
The proper distribution of the first week.

Monday and Tuesday, sweet remembrance,
To the lands as far as the pond,
And from the pond out,
A different one does not occur.

[2] *To the well.* Here, and throughout this commentary, the definite article is used in the translation several times where it is not in the Irish.

[3] *A sixth to each.* The Irish has a fifth, which seems plainly wrong.

Right of Water.

Cedaín, dardaín, dingnaib ngal,
Is in tectmain feo do ricnaim,
Aeine, Sadarno, sluíno go lu,
Do faeraib airi isiu.

In trear feactmain nach imill,
Tuc luan agus mairt da lino;
Cedaín, dardaín, ni daer clu,
Tabair don daer in cur su;
Aeine agus fadarno, sir ngnad,
Do richnaim a neidenach.

Ocht laidi deg oigsair dal,
Is sin in cuairt camlan.
Gen ber muilend for a bleid;
Rantar aimail so frandad,
A comroind is ailaid feo,
Mani fecait ar feodo.

Crist gu nig gach mbeadaid mbi,
Mac don ingin Dabraidi
Sil Adaim, Ilarda in sluag
Ricfid uili in noen luan.

Cid fo dera go fuiled tri xx. it fcriball do locd na fearand so leadrad sund, ocus mara muilend cumaile tri mbo na fagand acht famairg cona log i laim is bunaid? Se in fad, da daeinib na fearand da leadrad and da berar a fogla nimchuairt muilind da bertar doib, no niat na fcribail; ocus mara mor leoram na denad muilend ar fearand ind is eile.

Ocht la déc comlana isis in cuairt .i. luan tuifeach do thopur, mairt do linnid, cetain ocus dardain do faeraib, aindidin ocus featharn do fricghnum. Luan ocus mairt do thairidin o linni co topur ocus o muilinn sir. Cetain ocus dardain do fridgnam, ain ocus fatharn do traeg, luan ocus mairt do linni, cetain ocus dardain do faeg, ain ocus fatharn do fridgnam. Torrach cuarta in so do fidis; luan do tobar ocus mairt do linni, cedain ocus dardain do faeg, ain ocus

Wednesday, Thursday, of wonderful work,
In this week *go* to attendance;
Friday and Saturday, of mention least,
To the artisans who superintend.

The third week for every work,
Monday and Tuesday are given to the pond;
Wednesday *and* Thursday, not slavish their fame,
Give the artisan this turn;
Friday and Saturday, constant custom,
To attendance, give the last.

Eighteen days of fervid work,
This is the extent of the entire rotation,
Without mill-tribute for its grinding;
It is distributed as it was *above* distributed,
The distribution is thus,
Unless they sell it for 'seds.'

To Christ, who has power over every living life,
The son of the Hebrew Virgin,
The race of Adam, numerous the host,
Shall all come on one Monday.

What is the reason that there are sixty 'screpalls' *due* to the people whose lands were cut up in this instance; and if it be a mill worth a 'cumhal' of three cows, that it gets only a 'samhaisc'-heifer with its value into the hand of the owner? The reason is, the people whose lands were cut up in this instance are given their choice of having the rotation at the mill, or the 'screpalls'; and if they deem it too much, let them not make a mill on the other man's land.

Eighteen entire days is the extent of rotation, i.e. Monday first to the well, Tuesday to the pond, Wednesday and Thursday to the artisans, Friday and Saturday to attendance. Monday and Tuesday *are* for the embankment *extending* from the pond to the well, and from the mill downwards. Wednesday and Thursday *go* to attendance, Friday and Saturday to the artisan, Monday and Tuesday to the pond, Wednesday and Thursday to the artisan, Friday and Saturday to attendance. The commencement of the *second* rotation here again: Monday *is due* to the well, and Tuesday to the pond, Wednesday and Thursday to the artisan, Friday and

Right of Water.

fathaiṁ do fritgnam. Da la do each ae a feaċtmain, a .iiii. a coicthigi do caċa, a uí dia xx. it aidċe, oċt la caċ ae dia mi .i. a ceṫair do linni, a do do thopur, a do tairidin 1 coitcinni itir linni ocus topur, ocus o muilind fir. Confodlaidhe etrithi uile.

Ataat .uii. claid la feine na direnaiter cinaid cia frobdaiter indib, ar adgerad each di threbaire neoch mani denta fuidlef de. Clad dune, clad cille, clad firt, clad uisci tairidne, clad linne muilind, clad fotaig mona, clad bir im droichet; ar otha fuidiu hicad each cinaid a claid di cacha nime do frona nech ina tir, do neoch forroi ocus do lina tola, arie cogairead cacha trebuire mana ro famaigtea na ro dilre ro huisce, cenmoċa na .uii. claid reo. Is for rund ro fuidigeḋ coibniu uisce tairidne la feine.

Ataat .uii. claid, .i. ataid .uii. cluiḋ da naisneidend in peneċar ocus noco neisnitir eisic ina cintaib. Cia frobdaiter .i. cia ro baiṫ intib. Ar adgerad .i. uair da urgairdeḋ a trebaire im gaċ nduini mani fuidigṫea na neiċi feo a frondilsi. Clad dune .i. in fid .i. do nithir im dun na flaṫa da daingniugud. Clad cille .i. in feleg. Clad firt .i. inn oenaig .i. cid innoligeḋ fo uile, isin. Clad uisci tairidne. .i. clad ind uisci tairngitir and cum in muilind, in tan ata

1 *They all divide these between them.* Dr. O'Donovan remarks on this; "Whenever a mill was to be erected for the use of neighbours, it was left to the option of the persons concerned (who were generally the inhabitants of the three nearest lands), whether they would all join in constructing the works and conducting the water thereunto, or let all be done by one man, who was to pay his neighbours for conducting the water through their lands. If the neighbours had assisted in forming the mill-pond, mill-race, and other works, they were entitled to certain days' grinding at the mill, according to their respective positions on the land through which the water was conducted. They were technically distinguished, like the different branches of the family of a chieftain, by the terms 'gelfine,' 'derbhfine,' 'iarfine' and 'innfine.' The 'gelfine' were those in whose lands the source of the water was (which source was not always the actual fountain of the stream, but the point at which the water was turned off for the use of the mill; the 'derbhfine' were those who dwelt on both sides of the mill-leat or embankment extending from the well or point where the water was turned off to the pond; the

Saturday to attendance. Two days to each in the week, four in a fortnight to each; six in twenty nights, eight days to each in a month, i.e. four to the pond, two to the well, two to the embankment between the pond and the well, and from the mill downwards. They all divide these between them.[1]

There are seven ditches, according to the Feini, the injuries done by which are not paid for (though such should be done by them), for every person shall be corrected by his surety unless they have been made free; the ditch of a 'dun'-fort, the ditch of a 'cill'-church, the ditch of a fair-green, the ditch of a mill-race, the embankment of a mill-pond, the ditch of a turf bog, a ditch which is at a bridge; for from this out each one pays for the injury sued for or caused by each ditch which one has made in his land, to him who has sustained the injury, for every surety shall be sued unless these exemptions have been established as regards water, except these seven ditches. It was thus that the common right to conducting water was established by the Feini.

There are seven ditches, i.e. there are seven ditches which are mentioned by the 'Fenechus'-law for the injuries of which no 'eric'-fine is paid. Though such should be done, i.e. though such have taken place. Shall be corrected, i.e. for his surety would forbid every man, unless these things had been established as exemption. The ditch of a 'dun'-fort, i.e. of the king, i.e. which is made around the 'dun'-fort of the chieftain to fortify it. The ditch of a 'cill'-church, i.e. the cemetery. The ditch of a fair-green, i.e. of the fair. Though all these are illegal, they are exempted. The ditch of a mill-race

'iarfine' were those around the pond; the innfine were those who resided on both sides of the stream below the mill, until it flows out of the land of the parties concerned. Each of the parties through whose lands the water was conducted was entitled to certain days' work at the mill in their turn, according to the above classification; but if they did not choose to be paid by the work of the mill in grinding their corn, the owner of the mill paid them to the amount of sixty 'screpalls' to indemnify them for the injury done their lands by the channel and embankments necessary to conduct the water to the mill. The price was paid to each in proportion to the value of his land, for the commentator says that ten 'screpalls' were paid for arable land, even if the water had been conducted only over a foot and a quarter of it. The mill was of such importance to the neighbours, that none of them could prevent the conducting of the water to it when the price was offered.

Right of Water. ina dligeb. Ar a coitcinne na clad ra gu nad uraba cin dagba for a tigernaib; no ir dentada iad ar nar cinn ugdair cinneb denma; ocus ma da rona duini iad mar ir dligteada conraimg, ir denta dirait iad. Clad fotaig .i. in clad ar a tabar fobad na mona .i. na cuiteda .i. oc na bi forcongrad, no aicbeile. Clad bir im droichet .i. clad bir laim re ceand in droicid. Ar otha fuidiu .i. o ta innai eada irin imad icaid cinaid a cluid do cad ni anmainiger re ina dir do neoc bir co indligeb. Di cacha nime .i. da ni nead ina fearand. Do neoch forroi .i. do neoch rir a rirfuactnagend re .i. di neoch linar imad uisci. Are cogairead .i. ro hordaigeb im cacha trebaire, mana ramaigthea na hernaile ro do ro dilre.

i.e. the ditch of the water which is drawn to the mill, when it is in its lawful condition. In consequence of the general nature of these embankments, it is not easy to sue their lords for trespasses; or they are erections concerning the construction of which authors have laid down no defined mode of construction;[1] and if a man has made them as lawfully as he was able, they are lawful erections. The ditch of a turf bog, i.e. the ditch out of which the sods of turf are taken, i.e. the pits, i.e. at which there is no warning *notice of* danger. The ditch at a bridge, i.e. a ditch which is close to the head of the bridge. For from this out, i.e. from these particular things out he shall pay fine for every injury caused by every ditch in his land which is unlawfully made. By each ditch, i.e. which one makes in his land. Who has sustained injury, i.e. to the person who has been truly injured by it, i.e. who has been overwhelmed with water. For every surety, i.e. it was ordered upon every surety, unless these things were established as immunities.

[1] *Have decided nothing.* Or it may mean, "have left nothing decisive in their writings as to the construction of them."

maigne.

PRECINCTS.

maigne.

Precincts. Ro bai tuscomrag fer nerenn a fliab fuait, no cuilt, a maigi brég .i. a nerroic ocus a nollamain, ocus a flaṫa, ocus filidi, ocus a fuiṫi, ocus a seanori. Ocus ro meramnaig irin dail sin maigin set do gaċ grad itir grad ecailsi ocus tuaiṫi; ocus ro scribaḋ ag feraib erenn a car mor na sean aní so; ocus isi só eisride .i. boaire laiċ innraic, mear a ḋigona .i. ro meiramnaig maigin dígona caċ grad.

In cnairseaċ, da dorn deg itir a hiarann ocus an baile a negarṫar a haḋarc fuirre a foċair .i. a hurlann. Ocus an tuscar cuiter uaḋa an boaire ḋí sin ocus aé na truigi a ndorus a tigi, ocus arí sin maigin digona in boaire um a setaib; ocus a da cutruma don airedera; ocus a dublaḋ sin do gaċ grad ó ṫsin suas go rí tuaṫ .i. ceṫre hurcair ocus tri riċit do rí thuat. Ocus frisin faiċe meiramnaigṫar na hurcair so do gaċ maigin digona. Ocus is ar do leigi iat, ar a ninat a ngnaṫḋair [beiṫ] ana fuigi dogrer.

Rí ruirech; acaride bid riga .i. rí cuicid, ocus rí erenn, an airat so roiċ a scor sride for gaċ leiṫ, ocus

[1] *Inviolable precinct.*—'Digain' and 'maigin digona' seem to mean the same thing.

PRECINCTS.

There was a meeting of the men of Erin at Sliabh Fuaid, or Cuilt, in Magh Bregh, i.e. their bishops, and their 'ollamhs,' and their chieftains, and their poets, and their sages (*literary doctors*), and their seniors. And at that meeting there was ordained a precinct of 'seds' for every grade, both church grades and lay grades; and this was written by the men of Erin in the great 'Cas' of the ancients (*i.e. the Senchus Mór*); and this is it, i.e. *as to* a worthy lay 'bo-aire'-chief, the estimation of his inviolable precinct,[1] i.e. the inviolable precinct of each grade was estimated *as follows :—*

The spear[2] *measures* twelve fists between its iron *head* and the place where the horn is put upon its extremity, i.e. *the extremity* of its handle. Now[a] the shot of this which the 'bo-aire'-chief casts as he sits in the door of his house is the *extent of the* inviolable precinct of the 'bo-aire'-chief respecting his 'seds'; and the 'aire-desa'-chief has twice this extent; and every grade from that up to the king of a territory has double it, i.e. the king of a territory has sixty-four shots *as the extent of his inviolable precinct.* And it is by the 'green' these shots are measured for every inviolable precinct; and where they (*the shots*) are discharged from is, from the place where they (*the parties*) constantly sit.

[a] Ir. *And.*

A king of kings: it is he that has kings, i.e. the king of a province, and the king of Erin, and also the 'coarb' of Patrick; as far as their 'scor'-lands[3]

[2] *The spear.*—'Cnairpech' in other passages would appear to mean some sort of sledge or hammer.

[3] *Scor-lands.*—'Scor' is glossed 'mag' .i. 'cluain'; that is, a plain, a meadow.

Precincts. for comarba patraic, ocus ari rin a maigin digona. Ocus ir amlaid umorro, do na graadaib ocus ecailri, ocus ecna, ocus filid, acht diablad de eclais glain itir pennait ocus eiric, gin go fuil diabladh maigne.

No araile: mile ceimenn maigin naim, no eppuic, no aibilliteora, no deorai de, cid for acaid béit, ocus dá mile do gach cathair ataig uair. Ir mo dígnin na ngrad necailri in trath tochaigit cain im .uii. cumala doib .i. in dechbir eneclainne fuil itir in eppuc ocus na grad ecailri fil faid, gurab i rin dechbir ber eturra do maigin.

Egmacht, ainfir, ainfaitcer, ni forbrad dire tar faoch forair.

Cid ir fir, ocus cid ir anfir, ocus cid ir aincir, ocus cid ir aitgin, ocus cid irlan, a leith reir in comairce?

Nin—Ireth ir fir ann, a beith ar comairce, ocus do fitir tairgrin dligi aigi, ocus a breith a ficht cruid in duine rin fein. Ocus ireth ir anfir ann, a mbreith a ficht cruid na naib for comairce. Ocus ireth ir aincer ann, an tan nar feadh croch an dilri [g] na naib for comairce no go rug croch ro bai for comairci. Ocus ireth ir aitgin ann, a mbreith a ficht a cruid fein. Ocus ireth irlann ann, an tan ir ainfir, no ir dian trarug, no ir comairce borblaccair.

Na daine ata ar comairce, ma ro gabrat daine aile

[1] *Cathedral.* In C. 194, 'cathair aitig' is explained "a church in which there are the three grades, i.e. a bishop, a professor, and an 'airchinnech.'"

[2] *In the shape of that very man's cattle.* That is, supposing them to be that man's cattle.

[3] *In the shape of his own cattle.* That is, supposing them to be his own cattle.

extend on every side, that is their inviolable pre- PRECINCTS.
cinct. And so also *it is* for the church grades, and *those* of wisdom, and the poets, but a pure church has double, both as[a] penance and 'eric'-fine, though it has not double *the extent* of precinct. [a] Ir. *Between.*

Or another *version*; one thousand paces *is the extent of* the precinct of a saint, or a bishop, or a hermit, or a pilgrim, if it be in the plain, and two thousand *paces* for the precinct of every noble cathedral.[1] The inviolable precinct of the ecclesiastical grades is greater when they demand law respecting seven 'cumhals' *being due* to them, i.e. the difference of honor-price which exists between the bishop and the ecclesiastical grades that are under him, is the difference that shall be between them as regards precinct.

Impotency, ignorance, inadvertence, do not increase the 'dire'-fine beyond 'faoth forais.'

What is knowledge, and what is ignorance, and what is difficulty, and what is compensation, and what is exempt, respecting the protection?

Answer—Knowledge means[b] *to know* that he is under protection, and to know that law was offered by him, and to take *his cattle* in the shape of that very man's cattle.[2] And ignorance means[a] to take them in the shape of cattle which were not under protection. And difficulty means[b] when he was not able to take the cattle of the culprit which were not under protection until he took cattle which were under protection. And compensation means[b] when he took them in the shape of his own cattle.[3] And *the case of* exemption arises[c] when it is *a case of* ignorance, or forcible violation, or unlawful protection. [b] Ir. *Is.* [c] Ir. *Is.*

If the persons who are under protection have taken other persons to them under protection, and if it is

Precincts. cuca ar comairce, acht mar ar a ndualgur fein do niat a comairce, irlan a farrag, mar a deir fo; Oiguin digona; ni fnaigi deora araile; ni dlig nech riach a ndig [uin] amur.

Mar a dualgur in ti ar a fuil comairce do ni fé a comairce, ir let eneclann dó ina trarrag; ocur let eneclann do a farrag a primmna ocur a mic gor, ocur trian nenneclainne do a farrag a mic faorleici, ocur gach duine dia muintir aontigi.

Ocur noca neirum fo earb friu an comairce do denam annrin, ocur da mad é, do bed lan eneclann dorom unnta fide.

Ma fo airbertnaigertair nech dia muintir a comairce ina égmair; mara duine nach fuil failachtain umrcair fir, ir trian eneclainne don rig ina trarrag, ocur ni fuil do fein ina tarrag aon ni.

Cid fo dera go nach fuil ni do a farrugad amair um a comairce ina égmair funn, ocur gona fer muinntiri do é, ocur go fuil trian nenneclainne do irin fut feinachair a farrag a mic ocur gach duine dia muinntir ina egmar?

Ir é an fath; Daine nach doich do dul uada acht le dechberer; ir air ata ni do ina farrugh.

Ir aire na fuil ni do a farrugad amair, uair ir doig a dul uada gin dechberer.

An duine tug an dilred ón altoir iarr na fead

[1] *Son under his control.* This seems to be the meaning of 'mac-gor' here; elsewhere it means "a sister's son."

[2] *For violating them.* That is for violating their protection.

on their own account they afford the protection, it is lawful to violate it, as this *rule* states: "Sanctuary of sanctuary; one pilgrim does not protect another; no one is entitled to fines for the violation of *the protection of* his hired soldiers.

If it is on account of him under whose protection he is he affords the protection, it is half honor-price *that is due* to him for the violation of it; and it is half honor-price *that is due* to him for the violation of *protection in case of* his first wife and his son under his control,[1] and a third of honor-price for the violation of it in the case of his emancipated son, and of every person of his family in the same house.

And it was not he (*the owner of the precinct*) that ordered them to afford the protection in this case, and if it was, he would have full honor-price for them.

If any one of his people pleaded his protection in his absence; if he be a person who has no expectation of separation from him, it is one-third of honor-price that is *due* to the king for violation in his case, and he shall have nothing himself for the violation *of his protection.*

What is the reason that there is nothing *due* to him for the violating of *the protection of* his hired soldier, respecting his protection in his absence in such case,[a] and because he is a man of his family, and that he has one-third of honor-price in the extent of the 'Fenechus' law for violating *the protection of* his son and every one of his family in his absence?

[a] Ir. *Here.*

The reason is: They are people who are not likely to go away from him except by necessity; it is for this reason that a fine[b] is *due* to him for violating them.[2]

[b] Ir. *A thing.*

The reason that nothing is due to him for violating *protection in case of* a hired soldier is, because it is likely that he will go away from him without necessity.

The person who carried the culprit away from the

Precincts. gin airgrin dligi, ocus nocar rail ragha nina aile, ised so dera a frlainti do.

Caiti comairci a caemtecht? .i. uair noc fuil an comairce gin tairgrin dligi .i. tairgrin dligi a leit re creacaib ocus re cneadaib, ocus re fuilitaib, ocus re comairce, et alia similia.

Secht cumala do smacht, ocus lan eneclann do na huairli a marbad for a comairci, ocus a let do na hirli; ocus gell na coirpdire a laim na comairce.

Na huile cneda uilidi, ota bar go banbeim, go natgabail an bair, ocus gin atgabail an banbeim, a let smacht budein don comairce, so aicne iril no uarail; ocus in tainmrainne da eneclann fein fuil don tí ar ar fera in cned no in fogail, so aicne nobaig no eirce, gurab e an tainmrainne sin da eneclann fein ber don comairce ann. Ocus noca fuil decbir noba na eirce sir in comairce uime in smacht.

Cid biar irin nurgabail tria eirce?

Cetraime eneclainne dona huairlib, ocus let eneclann do na hirlib, ocus aitgin.

Cid biar irin beogain tria eirce?

Mar uaral for comairce iril, no iral for comairce uarail, da trian a neneclainne fein do na uairlib, ocus a let eneclann fein do na irlib, ocus airic na fet fugad do muin na comairce in gach ina[d] did sin. Mar iril for comairci iril, lan eneclann do cechar de.

[1] *Their own honor-price.*—Nearly the remainder of the column in the MS. (about one-half of the whole), is in a different hand.

altar, after the terms (*specified times*), without offer of law, is exempt,[a] because he could not expect to find him in any other place. PRECINCTS.

[a] Ir. *It is the reason of his exemption.*

What is protection as to reciprocal rights? i.e., because there is no protection without offer of law, i.e. offer of law with regard to plunderings and wounds and blood-sheddings and protection, et alia similia.

Seven 'cumhals' of 'smacht'-fine, and full honor-price *are due* to the nobles for killing *one* under their protection, and half to the plebeians; and the pledge for the body-fine *shall be placed* in the hand of the protector.[b]

[b] Ir. *Protection.*

For all wounds, from a death *wound* to a white blow, including the death *wound*, but not including the white blow, half his own '*smacht*'-fine *is due* to the protector,[b] according to the nature of plebeian or noble; and the proportion of his own honor-price, which is *due* to the person upon whom the wound or the injury was inflicted, according to its nature of thrust or cut, is the proportion of his own honor-price which will be *due* to the protector[b] for it. And there is no difference of thrust or cut in the protection with respect to the 'smacht'-fine.

What shall be *due* for the arresting by means of cutting (*wounding*)?

The fourth of honor-price to the nobles, and half honor-price to the plebeians, and compensation.

What shall be for the life-wound through cutting? If it be a noble *that is* under the protection of a plebeian, or a plebeian under the protection of a noble, two-thirds of their own honor-price[1] *are due* to the nobles, and half their own honor-price to the plebeians, and a restoration of the 'seds' which were given on account of the protection in each instance of them. If it be *the case of* a plebeian under the protection of a plebeian, full honor-price *is due* to each.

Precincts. Cid biar Deneclann irin mbeogain comcataig caich fo mbithar mama? .i. an tainmlainne ata Don ti ar ar fera in cned, gurab é in tainmlainne cédna da eneclann fein ber Don comairce a ferthain cnedi for a comairce.

A fogla eneclainne a nurrudur, mad cned robaig a cain.

Rith cairdi ocus dligi digona go tri nonbara .i. fecht cumala gacha laime go tri nonbura.

Rith cairdi .i. cumal gacha laime co tri nonbura a ndligi digona .i. ina farugad im a comairce.

Rith na aitgina co cuicer, ocus flicht floig .i. ata fiach flechta floig fund a ndliged digona, ocus irin forlorgad, ocus ni fuil a cain ná a cairde.

Deim pechaé an eclair, co ndigrit erti fairre daire amail ted, ar cid (i tan innsi mic maithain buidi dor nalla iarum fo eisi acht) .i. didne na cintacha, no didnithar na pechacha ir in neclair co ndigrit erti, co ngabtar feich uada in baile a ndlegar bar .i. irlan di in dide fer na freb gin tairgrin dligi a cechtar de, ocus in didi iarr na freb go tairgrin dligi, ocus in didi ar bar ocus ar inndligi fiach dogrer. Ocus irlan di in lerugad ocus in comarleigenn dogrer.

In tidnacal, umorro, ocus in diten iarr na freb gin tairgrin dligi, ocus an dul ar cend na mbiba amaé, ir fiach ditin in gaé ní dib rin on eclair. Ocus iriat

[1] *In 'Cain'-law.* There is some defect in the MS. here.

[2] *For although.*—The MS. is again defective in this place, and the portion of Irish enclosed in brackets has therefore been left untranslated.

What shall be *the amount* of honor-price for the life-wound of a man of equal dignity who is in subjection to any person? I.e. *whatever be* the proportion which is *due* to the person upon whom the wound was inflicted, it is the same proportion of his own honour-price that is *due* to the protector for the inflicting of a wound upon *the person under* his protection. PRECINCTS.

His divisions of honor-price in 'urrudhus'-law, if it be a wound by thrusting in 'cain'-law.[1] . . .

The "running" of 'cairde'-law, and of the law of sanctuary is to thrice nine persons, i.e. seven 'cumhals' for every hand as far as thrice nine persons.

The "running" of 'cairde'-law, i.e. a 'cumhal' for every hand as far as thrice nine persons in the law of sanctuary, i.e. for violation to a person[a] in regard of his protection.

[a] Ir. *His violation.*

The "running" of the compensation is as far as five persons, and the track of a host, i.e. the fine of the track of an army is here in the law of sanctuary, and for arson, and it is not in 'cain'-law, or in 'cairde'-law.

The church protects sinners,[b] so that they come out of it free *or* bond, as they entered it, for although,[2]

[b] Ir. *A sinner.*

. . . . . .

i.e. it shelters the trespassers, or the sinners are sheltered in the church until they come out of it, so that fines are accepted from them where death was deserved, i.e. it is safe for her (*the church*) to protect before the terms (*specified times*) without offer of law in either of them, and to protect after the terms with offer of law and to protect against death and unjust fines always. And she is exempt for entertaining and advising at all times.

As to the escorting and protecting, however, after the terms without offering law, and the going out for the culprits (*assuming their place?*), fines for protecting are *recoverable* from the church in each case of these. And

Precincts. Daine irlan don eclair do leagan ar .i. nech do na dlegar ní. No, ir deora na haicilri norleigedh ar, ocus ni bi a cin fidhe for lucht na hecailri. No dno, ir ana naonar tegait don neclair, ocus tiagait airte a naonar, ocus ir flan don eclair sin, uair dlegar do na gradaib flatha biatha gin imcomarc, ocus ni dlegar do na gradaib feine.

Ní obann ditan ar bar .i. ní obann, no ní diultann nech do ditan ar bar, ocus ar innolige fiach go tairgsin fiach, an tan dlegar bar.

Mana ti aidbred, ocus ní uil biatha, muna mo na aon aidche ata ar eirceptur don eclair, an baile a ndlegar bar o tuait gabar feich o eclair, ocus ma feich o tuaith, irlan ag eclair.

Fear certa, ma fichir, ní ba raith feilmic mana biatha, no man eidithar a cumat fir leighinn .i. in fer do ní an ceird maidh feighathair, ma aithair in feigh aith, na hae, in foircedail, no aithair na ae, na alaidan. Ocus nocha mberait cinta na mac bir ag foglaim foilfecht aca .i. foghnam fuidhri no daorceile uathaibh re re na foglama. Ocus ma mic urradha na haiaib fo, no mar ar dia do berar dan doidh, ni icait a naitib a cinta; ocus in tan ir ar log do ghnithar dan doidh, icait aitaidhib.

[1] *During the term of the learning*, i.e. while they are serving their apprenticeship the pupils or apprentices were obliged to do all sorts of menial work for the master tradesman, such as to put out his dung, reap his corn, feed his pigs, or do any other kind of menial work, which was usually done by the 'fuidhir'-tenant, or the 'daer'-tenant. A good deal more on this subject will be found in the "Cain Lanamhna," Ancient Laws of Ireland, vol. ii., p. 342, *et seq.*

the persons whom it is safe for the church to let escape, i.e. *are* persons of whom nothing is due. Or, *according to others,* it is pilgrims of the church she lets escape, and their crime is not upon the people of the church. Or indeed, *according to others,* it is alone they come to the church, and alone they go away, and that is safe for the church, for the chieftain grades are bound to entertain without asking *questions,* but the 'Feini' grades are not bound. PRECINCTS.

It refuses not shelter against death, i.e. it denies not, or it refuses not to shelter one against death, and from unlawful *claims for* debts so far as to offer *to pay* the debts when death is deserved.

Unless demand comes, and there is no refection, (unless more than one night is *allowed* as an exception to the church), where death is demanded of the laity, debts *are accepted* from the church, and if *it be a case where* debts *would be accepted* from the laity, the church is exempt.

A man of art, if a professor, cannot be surety for a pupil, unless he has fed him, or unless he has instructed him as long as a lecturer, i.e. the man who exercises the art, if he be a 'feigh-athair' ('the father of sharp art'), science, or teaching, or 'the father of art, or science.' And they do not sustain the liabilities of the sons who are learning their art with them, i.e. the service of a 'fuidhir'-tenant or a 'daer'-tenant is *due* from them during the term of the learning[1]. And if these are the sons of native freemen, or, if they be taught the art for God's sake (*i.e. gratis*), their tutors shall not pay for their crimes; but when it is for a fee they are taught the art, their tutors shall pay[2] *for their crimes.*

[2] *Their tutors shall pay.* Before the word "ıcaıc," in the MS., a few words occur which are very dim and seem to yield no intelligible meaning.

Do breitheamhnus for na huile cin do ni gach cintach, siosana.

OF THE JUDGMENT OF EVERY CRIME WHICH EVERY CRIMINAL COMMITS, DOWN HERE.

Do breitheamhnus for na huile cin do ní gach cintach, siosana.

Of every Crime.

Cir lir fodla for cintaib cach cintai?
Nin—a fecht.

Cadiat fair fadeirin? Ma nerla, mar fulla, teit for innile do beodile no do mairbdile. Do nach bir on, a cin for athair. Ir aruidiu ina bi athair teit a cin for a brathair ocus a deirbfine. Mar fullatsidhe cona furtar forra, a cin for a flaith. Ir a fuidiu na bi lair, bid a cin for a lerud, bruit, ocus biud. Ir a fuidiu, mana arfurtar for a lerud, bid a cin for fiz. Ir de irbeartar, cach dicenn co fí, ar a can fenechus, do uidib cinadh cach cintaiz.

Cir lir fodla, .i. cia lin ar a ninnlithen éiric cinad in cintaiz, .i. eiric a cinta. Ma nerla, .i. madia nélaid cin ic. Mar fulla, teit for innile, .i. eitir tír ocus innile. Do nach bir on, .i. mana roib annso ón. A cin for athair, .i. uair na bí mac, ar dia mbeidhe ir fair so rachad riarfu tirad for athair, uair ata ir in coir féine, cén ber fine ar a cinn ni for cula do raiz. Ina bi athair, .i. mana roib athair and. For a brathair, .i. ar a deardbrátair. A deirbfine, .i. gelfine, in tan na bíd derbbratair. For a flaith

[1] *Which are they?*—On the left-hand margin of the MS., opposite the words 'cadiat fair fadeirin,' is the remark 'uraicecht caol so'; 'this is slender uraicecht,' or instruction—a reference to some law tract so called.

[2] '*Coir Feine*'-*law.*—This was a law of adjustment by which the Feine, or agricultural classes, settled their cases of damage and trespass of cattle, &c. *Vide* C. 27.

OF THE JUDGMENT OF EVERY CRIME WHICH EVERY CRIMINAL COMMITS, DOWN HERE.

How many divisions are there of[a] the crimes of every criminal?

Of every Crime.

Answer—Seven.

[a] Ir. *Upon.*

Which are they[1] upon himself? If he absconds, if he has absconded, it goes upon his chattels, of living chattels or of dead chattels. *As to* him who has them not, his crime *goes* upon his father. It is in the case of him who has not a father that his crime goes upon his brother, and his 'deirbhfhine'-relations. If they have absconded so that they cannot be caught, his crime *goes* upon his chief. It is in this case, if he has not *a chief*, that his crime is upon his bed, raiment, and food. It is then, if his bed cannot be found, that his crime is to be upon the king. It is from this is said, "Every headless man (*i.e. without a chief*) to the king," as the 'Fenechus'-law says, of the incidence[b] of the crime of every criminal.

[b] Ir. *Journeys.*

How many divisions, i.e. how many are they upon whom the 'eric'-fine for the crime of the criminal is put, i.e. the 'eric'-fine for his crimes. If he absconds, i.e. if he absconds without paying. If he has absconded, it goes upon his chattels, i.e. both land and chattels. *As to* him who has them not, i.e. if he has them not here even. His crime *goes* upon his father, i.e. when he has no son; for if there was a son, it is upon him it (*the crime*) should go before it went upon the father. For there is in the 'Coir Feine'-law,[2] "As long as there is a family before him, it is not backwards he sues." It is in the case of him who has not a father, i.e. if there be not a father there. Upon his brother, i.e. upon his real brother. His 'deirbhfine'-relations,[3] i.e. upon his 'gelfine'-relations, when there is no brother. Upon

[3] '*Derbhfine*'-*relations.* For an explanation of this, and 'geilfine,' 'iarfine,' &c., *vide* C. 984, *et seq.*, and *n. p.* 220, *supra.* Also, Ancient Laws of Ireland, vol. iii., p. cxxxix., *et seq*; and Maine's Early History of Institutions, p. 208, *et seq.*

Of every Crime.

.i. flaith bir forran ngelfine atarulla ann, ocus ni hé ir flaith do derbfine, na do iarfine. Ir cuca cuinnegar in cin friarfu co narustar co derbfine a ro gaib a ngiallu. Ir aruidiu na bi laigir, .i. ir do ni adba ir in na bi flaith aige. Bid a cin for a lerui, .i. leith cin, nó lan cin, no trian cin. Mana arustar for a lerui, .i. ir don iadba irin, mana tarrtaithem for a lerui é. Bid a cin for fri, .i. bid a cin for fri in cuicid. Ir de irbeanar cach dicenn co ri, .i. ir de raiter cach ni gur na bi áball cenn cinaid ir do cum in fri berar é.

Conbeir cinaid cach brathair co taber derbfine. Saigtech cach fine. Eirentach cach fine iar neloid cintaig; do na be derbfine foloing taoibfine, no iarfine, a flaith, a fri, a frecht; conregat, arrenat, do nimairced cinta cach cintaig.

Nach deoraid din cintach arlai, na roich in etoil fir flatha, na bi conarustar, uair ir ditecdaig, didir, do rotraid.

Conbeir, .i. commberat, no cainberat cach brathair iar nic don mac ocus don athair ocaib, no co na biat itir. Co taber derbfine, .i. ir taitnemach berer gelfine. Saigtech cach fine, .i. arad ocus trorcad foraib. Eirentach cach fine, .i. eirnid cach fine riacha iar léco élaigde don cintad. Do na be derbfine, .i. mana roibe derbfine ar gelfine aige. Foloing taoibfine, .i. imfuilngid fine taoib a brathar. No iarfine, .i. a mic, no aire buaein. Ir aire fodera cin for derbfine, ocus iarfine funn friarfu teir forr an flaith, ar ir aon flaith fil forra; flaith gelfine imurro, tm̄ tō friur. A flaith, .i. flaith na ceithre fine.

Cach cenn ro gaib a ngiallu no conicfa a ngabail, cach ni ro gaib

[1] *Prius.* The contracted words here are unintelligible to the editors.

his chief, i.e. the chief who is over the 'geilfine'-division which happens to be there (*in existence*); and it is not the chief of the 'deirbhfine'-division, nor of the 'iarfine'-division. It is on them (*the 'geilfine'-relations*) the crime is charged *by him* before he brings it to the 'deirbhfine'-division from whom he has taken their pledges. It is in this case, if he has not *a chief*, i.e. it is in these cases where he has no chief. His crime is upon his bed, i.e. half-crime, or full crime, or a third of crime. If his bed cannot be found, i.e. in that case, if he is not caught upon his bed. His crime is upon the king, i.e. his crime is upon the king of the province. It is from this is said, "Every headless man to the king," i.e. it is from this is said, that everything that has not a great head for[a] *sustaining liability for* crime, it is to the king it is brought.

[a] Ir. *Of.*

Every brother bears crimes until the 'deirbhfine'-division bears them. Every family is suable. Every family is liable to pay after the evasion of a criminal; when he has no 'deirbhfine'-division, the 'taoibhfine'-division bears it (*the liability*), or an 'iarfiine'-division, his chief, his king, his law; they bind, they pay, they bear the crimes of every criminal.

Every exile now who as a criminal absconds, who has not gone away in violation of his oath to a chief, who is not to be made amenable, because he is without possession, without land, is put upon the road.

Every brother bears crime equally, i.e. equally, or beautifully each brother bears it, after it has been paid by the son and by the father, with them (*when they there are such*), or when they have them not at all. The 'deirbhfine'-division bears, i.e. beautifully the 'geilfine'-division bears it. Every family is suable, i.e. notice and fasting *are to be enjoined* upon them. Every family is liable to pay, i.e. each family shall pay debts after the criminal has absconded. When he has no 'deirbhfine'-relations, i.e. if he has not 'deirbhfine'-relations in place of 'geilfine'-relations. The 'taoibhfine'-division bears it, i.e. his brother's side-family shall bear it. Or an 'iarfine'-division, i.e. *the after family* of his son, or upon *the son* himself *if he exists*. The reason why the crime goes upon the 'deirbhfhine'-division and the 'iarfhine'-division here, before it goes upon the chief is, because it is one chief that is over them; *as to* the 'geilfine'-chief, now cṁcc prius.[1] His chief, i.e. the chief of the four families.

Every head (*chief*) who has taken their pledges or who is com-

Of every Crime.

ir a cin fair, mana tarrfurtar for a fine ; cach aon imurro, na fo gab ocus na caomnacair, ni biad a cin fair cen tarrfurtar for a fine.

A rig, .i. rig na tuaithe. A frecht, .i. rig in cuicid. Conregat, .i. cumraigset. Arrenat, .i. icat mana cumraigeat. Do nimaircet cinta cach cintaig, .i. timaircither orra frin na cinta do ni gach cintach.

Nach deoraid din cintach arlai, .i. nach ar gach; nach deora, no nach diurraid élar iar ndenam cinad Na roich in etoil fir flatha, .i. mad toil naime don toil flaithra na flatha. Na bi conarfurtar, .i. mana roib fe co tarrtaithet é. Nair ir ditechtaig, dithir, .i. in ti na techtann innile [na tir]. Do rotraid, .i. raidig in breithem a dul for rót.

Cach cin techtire do ni duine cenmotha marbad, dia tarrfurtar fair, ir écnic uatha budein co ro tocaitet ór ocus airged ocus innile ocus a tír inn ; ani bir fair cin écnic, ir ic dia fine amuil cobrannait crú.

Mana tarrtaithet fair, ir ic dia fine iar tocaithem a tire frim inn, amuil comrannait crú.

Mad marbad techtire, cenmotha na ceithre gona duine techtire in corpra fine, .i. guin in mic derbfine, guin dalta na fine, guin mic faorma, guin mic mna fine ; cia tarrfurtar fair gi ni tarrfurtar, ir ic dia fine amuil comrannat crú, ocus icaigrom cumal aithgena, ocus cutruma fri mac no athair, do na fé cumala dire.

Cid armad fair aonar techrad gach cin do gni duine cenmotha marbad mad dia mbe oga a ic?

Nin :—Ar cid frir aonar do gnither olc, cenmotha marbad, ir frir aonar icfaithet. Gach marbad imurro do gni, ni hé

petent to take them : *for* every thing which he has taken, his crime is upon him, if it cannot be charged upon his family ; *as to* everyone, however, from whom he has not taken *a pledge* and could not *take it*, his crime shall not be upon him, even though it be not charged upon his family. OF EVERY CRIME.

His king, i.e. the king of the territory. His law, i.e. the king of the province. They bind, i.e. who bind. They pay, i.e. they pay unless they bind. They bear the crimes of every criminal, i.e. the crimes which every criminal commits is visited upon these.

Every exile now who as a criminal absconds, i.e. every *is* for each, every exile, or every non-native, who absconds after committing a crime. Who has not gone away in violation of his oath to a chief, i.e. who has not consented to bonds, who is not willing to take the chain of the chief. Who is not to be made amenable, i.e. if he is not so *placed* as to be held accountable. Because he is without possession, without land, i.e. the person who does not possess chattels nor land. He is put upon the road, i.e. the judge orders him to go upon the road.

As to every crime of necessity which a person commits except killing, if it is visited on himself, the 'eric'-fine is *raised* from him until *his* gold, and silver, and chattels, and his land are exhausted for it ; what he owes[a] besides 'eric'-fine is to be paid by his family, in the proportions in which they divide his property.

[a] Ir. *Is on him.*

If it (*the payment*) is not found with himself, it is paid by his family, after his land has been spent in it, in the proportions in which they divide his property.

If it be a necessary killing, except the four necessary woundings of a person in the 'corus fine'-law (i.e. the wounding of a son of the 'deirbhfine'-division, the wounding of a foster son of the family, the wounding of an adopted son, the wounding of the son of a woman of the family) ; whether it (*the means of payment*) be found upon him, or be not found upon him, his family are to pay in the proportion in which[b] they divide his property, and he pays a 'cumhal' of compensation, and an equal share with father or son, of the six 'cumhals' of 'dire'-fine.

[b] Ir. *As.*

What is the reason that it is upon himself alone every crime that a person commits goes, except killing, provided he has the means of paying for it[c] ?

[c] Ir. *Its payment.*

Answer : Because though it be against him alone evil is done, except killing, it is to himself alone it shall be paid. Every killing however which he commits, it is not he alone that shall pay *for*,

Of every Crime.

aonap icfuf cia beit ogа, act teif fop fine; ocuf ife in fáit ón; ap cid eifiṁ no cid a mac nó marbtha, if fine uile nó berad coifpoifie necfap de, ocuf ni ba a mac no atair tṁ.

Cach cin indechbiri imurro, do gni duine itir marbad ocuf anaill [nofaill] if e fadeifin inn, ocuf innile. Manatarfuifar fair imurro, mana be a ic ann, if ic dia mac, co fo tocaiter a innile, ocuf a tir inn.

Mana be a ic ann beof, if ic dia athair fon coir cetna.

Mana be a ic ann beof, if ic do gach teallach if nera co roifc a mbe oca, co fo lan ic in cinuid uadа; ocuf if aire icuf gach tellach if nefo, uair if indeichbir in cin fin budein, uair nach é do fonfat in cinaid.

Mad dib deichbire; deichbir cia gelltar; gelltar gola, luige fealb fetaib; fruithe daon diobad; fefr fef orba.

Mad dib deichbire, .i. mad dib aifneiter ann do na cintaib deichbire. Deichbir cia gelltar, .i. if deichbir cia gelltar a feronn de ina cintaib deichbire. Gelltar gola, .i. gelltar de é on gola, on cuiche. Luige fealb fetaib, .i. tuite feronn [ocuf innile] ina cintaib deichbire. Fruithe daon diobad, .i. if uairle in daon fin nár a dibad fet ocuf maine. Fefr fef orba, .i. if fefr in fef fin inar in feronn in tan if cin deichbire.

A chinta indeichbire uile itir marbad ocuf gan marbad a fcuichi inn ar tus, ocuf fé budein ina degaid; ocuf ma ta imarcraid ann, a dul ifin teallach if nefo. Ocuf a fogа don fine inné a dilfiug fein do denat ocuf in feronn do bef acu, nó ine in feronn do befad if in cinuid; ocuf a fogа na fine ata fin.

[1] *Or neglect.*—The Irish in brackets is written by another scribe over the word 'anaill,' implying the writer's opinion that the reading should be 'an faill, the neglect.' See, however, p. 268, *infra*, line 3.

though he has *the means of paying for* it, but it goes upon the family; and this now is the reason: because, though it were himself or his son that had been killed, it is the whole family that would take the body-fine of either of them, and not his son, or father, in the case. OF EVERY CRIME.

As to every unnecessary crime, however, which a person commits, whether killing and otherwise (or neglect),[1] it is himself that is *accountable* for it (*in his person*), and his chattels *and his land.* If it (*means of payment*) is not found with him, if he has not the payment for it, it is to be paid by his son, until his chattels and his land are exhausted for it.

If payment is not here even (*in the son's power*), it is to be paid by his father in the same manner.

If payment is not even here (*in the father's power*), it is to be paid by every next hearth until it reach what there is of them; until the full payment of the crime is made by them; and the reason why each nearest hearth pays is, because that itself is an unnecessary crime, since it was not they that committed the crime.

If it is of *cases of* necessity;[2] it is necessity though pledged. There is a pledge as to prison, property and 'seds' go. *This* one *man* is nobler than 'dibadh'-property. A man is better than land.

If it is of *cases of* necessity, i.e. if it is of these mention is made in the case of the necessary (*or unintentional*) crimes. Necessity though pledged, i.e. it is necessary if his land be pledged on his account for his necessary crimes. There is a pledge as to prison, i.e. there is a pledge to redeem him from the prison, from the pit. Property and 'seds' go, i.e. his land and his chattels are forfeited for his necessary crimes. *This* one *man* is nobler than 'dibadh'-property, i.e. this man is nobler than his 'dibadh'-property in 'seds' and *other* goods. A man is better than land, i.e. this man is better than the land, when it is *a case of* a crime of necessity.

In all his unnecessary crimes, both killing and not killing, his movables *go* first for it (*the crime*), and himself afterwards; and if there is an excess (*more than he can pay*), it goes upon the next hearth. And the family have the choice whether to hand him over and have the land to themselves, or whether they will give the land for the crime; and it is within the choice of the family this lies.[a]

[a] Ir. *Is.*

[2] *If it is of cases of necessity.*—In the MS. on the right hand margin opposite this paragraph, occurs the note, 'Coɲuɲ ɾine ɾo.' This is "Corus Fine" (Family Law.) The paragraph, like many other fragments of text in the present volume, appears to have been originally in metre.

Of every Crime.

Ꭰ cintа deicbire marbta, a fcuicе in ar tuf ocuf a annfcuithe ina dеgaid, ocuf é fein ina dеgaid fide; ocuf ma ta imarcraid ann, a dul ar cuigef na gеilfine.

Ꭰ cinta deicbire gan marbad, a fcuicti inn ar tuf, ocuf a anofcuithe ina dеgaid, ocuf ar e fein in a deagaid féig; ocuf ma ta iomarcraid ann, a dul irin tellac ir nefo fuitit ann.

Cid fo defa a cinta deicbire cen marbad do dul irin tellac ir nefo, ocuf a cinta deicbire marbta do dul ar cuigef na gеilfine?

Ir e in fad fo defa; da ferta beocnead air, da mbed tiruairri deiric na beocneide fin gan caithem gan tobach in tan ir marb e, ir e in ti ir nefo no berad é. Coir no deiride a cinta deicbire gan marbad do dul irin tellach ir nefo; ocuf da marbta é, do berad gach fer do cuigef na gеilfine urrannuf da coirpdire. Cóir no deiride in cin deicbire marbta do biad aigi ciamad ar cuigef na gеilfine do dechrad.

Cid fo defa a cinta indeicbire itir marbad ocuf gan marbad do dul irin tellac ir nefa?

Ir e in fad fo defa; dá mbeit dibad aige, ire in ti ir nefo do fo berad é; cóir no deiride cia no dechra a cinta indeicbire uile, itir marbad ocuf gan marbad, irin tellach ir nefo.

Ired ir cin indeicbire funn cin comraice. Ired ir cin deicbire ann ir in coruf fine cin anfoit, no indeicbire corbda.

Ir lor limfa de log fir ir a faill fiacha.

.1. Ir lor limfa de fin, a log do fiadaib in fir do fugne in faill.

[1] *Necessary profit.*—The Irish means "unnecessary profit," which is plainly a mistake of the scribe.

As to his necessary (*or intentional*) crimes of killing, his movable property *goes* for it (*the crime*) first, and his immovable property afterwards, and himself after that; and if there be more *to be paid* in the case, it (*the excess*) goes upon the five men of the 'geilfine'-division.

In the case of his necessary crimes, except[a] killing, his movable property *goes* for it (*the crime*) first, and his immovable property after it, and it is himself after this; and if there is more *to be paid*, it goes upon the nearest hearth that happens to be there.

[a] Ir. *Without.*

What is the reason that his necessary crimes, except *in case of* killing, go upon the nearest hearth to him, and that his necessary crimes *in case* of killing go upon the five persons of the 'geilfine'-division?

The reason of it is: if a life-wound had been inflicted upon him, if a residue of the 'eric'-fine of the life-wound had remained unspent *or* not recovered at the time when he is dead, it is the person nearest to him *of kin* that would take it. It is proper accordingly that his necessary crimes, except[a] killing, should go upon the nearest hearth; and if he had been killed, each man of the five men of the 'geilfine'-division would take a portion of his body-fine. It is proper accordingly that the crime of necessary killing which he might have *incurred* should go upon the five men of the 'geilfine'-division.

What is the reason that his unnecessary crimes, whether killing *or* not killing, go upon the nearest hearth?

The reason of it is: If he had 'dibadh'-property, it is the nearest person to him that would take it; it is proper accordingly, that the whole of his unnecessary crimes, both killing and not killing, should go to the nearest hearth to him.

What constitutes[b] an unnecessary crime in this case is an intentional crime. What constitutes[b] a necessary crime in the 'Corus fine'-law is an unintentional crime, or *a crime* of necessary profit.[1]

[b] Ir. *Is.*

Sufficient with me[2] accordingly is the value of the man by whose neglect the debts are *incurred*.

That is, sufficient with me, accordingly, *is* value of the debts of the man who committed the neglect.

[2] *Sufficient with me.*—On the left-hand margin of the MS. opposite this fragment of text occurs the notice, "Cain Cormaic fo, ocus is gaolmar." "This is Cormac's 'Cain'-law, and it is akin" (related).

Of every Crime.

Lorcaḋ anfoit, no inneitbire torba fo, ocus do nithep trocaire fir, o fo fia lan in marbta, conā téit taisi; ocus nocha denta trocaire fir co fo fia lan in marbta.

Gaċ cin do gni duine tre inneitbi torba, cid mo, cid lúg, cid cutruma inna, is a ḋul féin inn mana bé éisic oca, co nderna log recht cumall do fognum.

Maḋ mó inna, nó má cutruma frisi, noca nderna log in éiniuḋ maḋ luga inda. Ce beṫ eisic oca isin, mad mo inda féin in cin do gne, is recht cumala uaḋa inn a trocaire; a etrocaire imurro, lan ic in cinaḋ, dia mbe oga.

La cro tuilleḋ naitreḃnai

.i. Is mo eigeg na recht cumala, lorcaḋ comraite é, ocus deoraiḋ frecair in duine, ocus fo ícta a recht cumala coisroire ré flaiṫ, ocus a fecht cumala reinne re heclais, ocus a di cumail cairde gaċa leiṫe do na ceiṫre leiṫe; ocus re do marbaḋ ina cinta comraite. Ocus a dein is in corp, baḋaḋ cach ina éinaiḋ .i. eiblíḋ cach ina cintaiḃ comraite in tan na fagaiḃ éisic.

Sect cumala for nech loiscer tre anfot, no a log [fognuma] do ḋénam, ma cutrama fri log recht cumala, no ma mó nas millter; ma luga imurro innait recht cumala millter ann, is a cesclog dic.

Ar trocaire ann sin, ocus ni teit a éin for sine in gcein ber in tí do roinni ar airi, no o tarrsugtar fair. In tan na bi necessar de, is ann téit for sine, ocus icait na recht cumala.

This is *a case of* burning by inadvertence, or unnecessary profit, and leniency is exercised towards him, so that when it (*the fine*) reaches the full *amount* for the killing, it goes not beyond it; and leniency is not exercised towards him until it (*the fine*) reaches the full *amount due* for the killing.

As to every crime which a person commits for unnecessary profit, whether it be greater, whether it be less, whether it be equal, he himself goes for it, if he has not 'eric'-fine, until he has performed the value of seven 'cumhals' of service.

If it is greater than, or if it is equal to him, he does not perform *service equal to* the amount due for[a] the crime, if it is smaller than him*self*. Though he have the 'eric'-fine, however, if the crime which he commits be greater than himself, it is seven 'cumhals' that are *due* from him for it, in *case* leniency *is shown;* the severity of the case however, is, the full payment of the crime, if he has it.

[a] Ir. *Value of.*

To death dwellings add.

That is, this is more than seven 'cumhals,' it is a wilful burning, and the person is an outlawed stranger, and his seven 'cumhals' of body-fine have been paid to the chief, and his seven 'cumhals' for penance to the church, and his two 'cumhals' for 'cairde'-relations to each side of the four sides; and he is to be killed for his wilful crimes. And it says in the text[b]: Every one dies for his crimes, *i.e.*, every one dies for his wilful crimes, when he does not get 'eiric'-fine (*is not allowed to compensate by paying 'eiric'-fine*).

[b] Ir. *Body.*

There is a fine of seven 'cumhals' *imposed* upon a person who burns by inadvertence, or *he is* to perform the value of it (*the thing burned*) in service, if what has been destroyed be equal to the value of seven 'cumhals,' or if it be greater; if what has been destroyed in the case be smaller than seven 'cumhals,' it is its exact value that is to be paid.

This is for leniency, and his crime does not go upon his family as long as the person who has done it is forthcoming, or when it (*the fine*) is found with him. When neither of these is *the case*, it is then that it (*the fine*) goes upon the family, and they pay the seven 'cumhals.'

[1] *An outlawed stranger.*—For the meaning of this term, *vide* Ancient Laws of Ireland, vol. 3, pp. 381, 383, and note 1, p. 382.

Of every Crime.

Gać uair ir lorcaḋ comṁraite ir clía nuḋ neċt. Gać uair ir lorcaḋ anfoit ir clia laṫrać naile. Cać uair ir mo in aiṫgin na lan in marḃta, do níṫar trócaire re urrad im lan in marbaiḋ do gabail uaḋa; ocus amuil do níter re urrad, ir amlaid do níter re deorud ocus re murcurta ocus re daor.

Lorcaḋ anfoit no indeiṫbire torba fo; ocus trocaire do finne fir cin dul tar lan in marḃta, tar feċt cumala ann fin. Ifi in trocaire dilgaḋ, no timdibe aneich dleġar ann.

Deiṫbir itir dilgaḋ ocus timdibe: dilgaḋ .i. cin anfoit no indeiṫbire etorba fri fine; ocus timdibe cin anfoit fri eċtar fine.

Aithgin ir ini loiscter tre indeiṫbir torba, no mana talla fair ar méit na aiṫgina, uerbi gracia, arromacha do lorca, ir e fein inn no feċt cumala. Máḋ tria comṁraite imurro, ir lan dire la aiṫgin inn; ocus frith for an dire co trí feotu beor .i. lan dire ocus leṫ dire ocus trian dire.

Acht cum ae atait ceiṫre gona duine deiṫbire naḋ eillnet coimge laime, 7rl.

.i. Atа aċt lim ann, an aei, no ar aiḋe co fuilit ceiṫre daine ir deiṫbir do guin; ocus nocha tabuir eillneḋ cinuiḋ ar nech cin co derna comoiġe no comṁarptaine friu olcena o laiṁ.

I ndigail fir derḃfine, coirpdire ocus einechann dleġait in fine in a marbaḋ; aċt mad do riaċt an eiric doiḃ riarfu do

[1] *A new clean frame.*—For 'clia' of the text, O'D., 590, reads 'cliaṫ,' 'a hurdle.' This was required when the building had to be restored, and upon new ground altogether. For sundry regulations on this subject, *vide* O'D., 590.

[2] *Compensation is made.*—On the right-hand margin of the MS. opposite this

Whenever it is an intentional burning it must be a new clean frame.[1] Whenever it is a burning by inadvertence, it must be a frame upon the site of the former. Every time that the compensation is greater than the full *fine* for the killing, leniency is exercised towards the native freeman, as regards accepting the full *fine* for the killing from him; and as is done to the native freeman, so it is done to the stranger and the foreigner[a] and the 'daor'-person.

[a] Ir. *Seasent.*

This is a burning by inadvertence or for unnecessary profit; and it was leniency that was exercised towards him in not going beyond the full (*penalty*) for the killing, beyond seven 'cumhals,' in the case. The leniency is forgiveness, or curtailment of what is due *of him* for it.

There is a difference between forgiveness and curtailment: Forgiveness, i.e. a crime of inadvertence or unnecessary profit against the family; and curtailment, *i.e.* an unintentional crime against an extern family.

Compensation *is made*[2] for what is burned through *an idea of* necessary profit, or if it (*the penalty*) falls not on him according to the greatness of the compensation (verbi gracia, to burn Ardmacha), it is he himself *that goes* in *lieu of* it, or seven 'cumhals.' If it (*the burning*) is *done* intentionally, however, it is full 'dire'-fine, with compensation *that is paid* for it; and the 'dire'-fine is to advance to three 'seds' besides, *i.e.*, full 'dire'-fine and half 'dire'-fine and a third of 'dire'-fine.

But there are four necessary woundings of a person, which defile not the purity of the hand, &c.

That is, I make an exception[3] in the case, for, or because that there are four people whom it is necessary (*or justifiable*) to wound; and it does not bring defilement of crime upon a person though he does not preserve purity or lenity towards them in general from his hand.

In avenging[4] a man of the 'deirbh-fine'-division, it is body-fine and honour-price the family are entitled to for the killing of him; but if the 'eric'-fine has been paid[b] to them before they effected the

[b] Ir. *Reached.*

commentary, occurs the note, "uraicecht caol mbec; slender little 'uraicecht' (instruction)."

[3] *I make an exception.*—On the right-hand margin of the MS., opposite this commentary, is found the note, "corus fine": (family law.)

[4] *In avenging.*—This was where the family of the slain man slew the slayer, or some one in his place.

Of every Crime.

fiġnigeth in digail fir derbfine, icad in fine coirpdire ocus enechlann amach fo cuthuma.

Mana torrhacht an éiric doib eitir, fiarfu do fiġnigeth in digail, ocus tarġus dligeda doib, toibġet coirpdire ocus enechlann eturra fein tall fo cuthuma, ocus roinnit eturra fo leithidhe é .i. athair ocus mac leth doib dinairc.

Mana torrhacht, no mana tarġus dligeda doib itir, ocus ni torrhacht in eiric doib eitir fiarfu do fiġnigeth in digail, ir slan doib e co thian, ocus toibġet thian amuiġ, ocus toibġet da thian eturru fein tall fo comairdhe; ocus comroinnter eturru fein fo leithidhe .i. athair ocus mac leth doib 7rl.

Ocus ir doib ir digail fir derbfine é do cuiġer na gelfine. No dono, comad digail coir do gach aon do dleigid fogail enechlainni ina marbad.

Digail daltha na fine.

.i. In daltha ocus in gormac. Fodla enechlainni dleġait in fine ina marbad fidhe; ocus mad do fiacht doib na fodla enechlainni dleġait fiarfu do ronfat in digail, icait coirpdire ocus enechlann amach fo cuthuma.

Mana torrhacht doib na fodla enechlainni dleġait fiarfu do ronfat in digail, ma tarġus dligeda doib, ir comardus̄ cen frithdire itir in coirpdire ocus in enechlainn dleaġar dib, ocus na fodla enechlainni dleġait; ocus cid be dib oca mbe an imarcridh, icaiġ re ceile.

Mana tarġus dligeda doib itir, ocus ni torrhacht doib na fodla enechlainne dleġait fiarfu do ronfat in digail, ir slan doib é co fuige a thian, ocus comardus̄ itir in da thian coirpdire dleġar dib, ocus na fodla enechlainne; ocus cid be dib oga mbe an imarcridh, icad re ceile.

Dalta coitcenn don fine uile fin; no cid dalta daon duine dib, e combed fogail enechlainne do gach fir don fine ina

[1] *The sister's son.* *Vide* note 1, p. 230, *supra.*

avenging of the man of the 'deirbhfine'-division, the family pay body-fine and honor-price out equal to it. Of every Crime.

If the 'eric'-fine had not been forthcoming to them at all, before they took the vengeance, and law had been offered them, they levy body-fine and honour-price among themselves within equally; and they divide it between them unequally, i.e. father and son have one-half[a] by right.

[a] Ir. *One-half to them.*

If law has not been given, has not been offered them at all, and the 'eric'-fine has not reached them either, before they took the vengeance, they are safe as regards it to a third, and they levy a third outside, and they levy two-thirds equally among themselves within; and it (*the 'eric'-fine from outside*) is divided between them unequally, *i.e.* father and son have half, &c.

And those to whom belong the avenging of a man of the 'deirbhfine'-division are the five men of the 'geilfine'-division. Or, indeed, *according to others*, that avenging was proper to every one who was entitled to damages *in the way* of honour-price for his being killed.

Vengeance for the foster child of the family.

That is, the foster-child and the sister's son.[1] *It is* damages of honour-price the family are entitled to for the killing of these; and if the honour-price damages to which they are entitled reached them before they had taken the vengeance, they pay body-fine and honour-price out equally.

If the honour-price damages to which they were entitled had not reached them before they had taken the vengeance, *and* if law has been offered them, there is *to be* an adjustment without reprisal between the body-fine and the honour-price which is due from them, and the honour-price damages which are due to them; and whichever of them has the excess, let them pay to the others.

If law has not been offered them at all, and the honour-price damages to which they are entitled have not reached them before they have taken the vengeance, it is safe for them as far as a third, and there is to be an adjustment between the two-thirds of body-fine which is due from them, and the honour-price damages; and whichever of them has the excess, let them pay to the others.

This is a common foster-child of the whole family; or though he be the foster-child of any one of them, there are honour-price damages due to every man of the family for the killing of him. That is,

Of every Crime.

marbad .i. mac faorma do gelfine, no do deirbfine fin, no cid mac faorma dainfine, co mbeith fogail einechainni do gach fir don fine ina marbad, mad fo badar uile ar airid ag a gabail.

Or dia cuindcertar cuige a eiric, forocairfeom dia fine eiric lair 7rl.

Or dia .i. or ar ocus, mad dia cuinnsitchen a eiric cuige ar amus in ti do rigne in digail fir derbfine. Forocairfeom .i. urfograid feom dia fine firic lair.

1 ndigail fir derbfine, acht ma do[t]airgenn fein a lan amach, ocus fo fogair dia fine ic lair, ired dlegar a gabail uada, ocus flan do tar éis.

Mad fo elorgarfuim ar a haitle, ocus nir gabad uad, ocus fo icfat in fine a cuit tar eis; in tan tigfeom re dligeb, icuid aitgin a cota gan lor gan ar gan inorbairt.

Mad do [t]argaidfim fein a lan amach, ocus nir fogair dia fine ic lair, ocus fo eloidfom, ocus fo icat in fine a cuit tar eis, in tan tigfim re dligeb icaid aitgin a cota go lor, ocus ar, ocus inorbairt; ocus icaid lan einechann in feicheman ir ferr don fine; ocus roinnit etarru í fo comairde no fo letairde. Ocus einechann gan leicfin éloidte fin; ocus ir í fin in dara einechann i corus fine gan leicfin elaigte. No dono, ir éloid in feicheman ir ferr don fine fo leice ann, ocus in áon einechainn fin díc fur, ocus a breit do aonar; ocus biad in dublad re daob, cin co tug ar airid, ocus biad einechann do gach fir don fine ir a héloid fo leiceb and.

C. 393. O'D. 994. O'D. 994. Caide deidbir etarru[fo], ocus in baile ata, 'Fal fine icus a caiche [corfo nicthar fa cach fet fo nicc co na fomuine] ni déit a náirem doib fein gleid na mes[na ith in tire].'

[1] *Of his 'eric'-fine.*—That is, the 'eric'-fine of the man who has been slain in avenging the man of the 'deirbhfine'-division.

this was an adopted son of a 'geilfine'-division, or of a 'deirbhfine'-division, or though he be the adopted son of an 'ainfine'-division, *it is the rule* that there are honor-price damages due to every man of the family for the killing of him, if they were all present at (*consenting to*) the adopting of him.

And if 'eric'-fine is demanded from him, he calls upon his family to pay 'eric'-fine to him, &c.

And if, that is, 'os' for 'ocus,' i.e. if his 'eric'-fine is demanded of him, of the person who has taken the vengeance for the man of the 'deirbhfine'-division. He calls upon, i.e. he calls upon his own family to pay him truly.

In avenging a man of the 'deirbhfine'-division, in case only he himself offer *to pay* the full *penalty* out, and he has given notice to his family to pay him, what is due is to receive it from him, and he is safe afterwards.

If he has absconded afterwards, and it (*payment*) has not been accepted from him, and the family have paid his share after him; when he submits[a] to law, he pays compensation for his share, without produce,[2] or growth, or increase.

[a] Ir. *Comes*

If he himself has offered *to pay* the full *amount* out, and has not given notice to his family to repay him, and has absconded, and his family pay his share after him, when he submits[a] to law he pays compensation for his share, with produce, and growth, and increase; and he pays the full honor-price of the best creditor of the family (*the best man among those who paid for him?*); and they divide it between them equally, or unequally. And this is honor-price without having absconded; and this is the second honor-price in the 'corus fine'-law where there is no evasion. Or, indeed, *according to others*, it was evasion from the best creditor of the family that occurred in the case; and this one honor-price is to be paid him, and he alone *is* to take it; and there shall be the double besides, though he brought it forward; and there shall be honor-price for every man of the family from which he has absconded.

What is the difference between these, and where it is *said*, "The limit of *the duty of* the family which pays his (*a kinsman's*) trespasses, until they are paid back every 'sed' which they have paid, together with its profit, the grazing of the grass, nor the mast, nor the corn of the land do not go into account against[b] them."

[b] Ir. *For.*

[2] *Produce.* 'Lor,' means produce in the way of calves, butter, &c., 'ar,' growth of the body of an animal in size, flesh, &c.; 'inorbairt,' improvement in general.

Of every Crime.

Cid fodera foimeltˢ in ferann do dul a nagaig na einechainni annsin, ocus nach teit ann seo?

Is e in fath fodera; do chuirid in duine ar in ferann ann sin, ocus nocha techaid ann seo; ocus ar eigin fo cuire in duine don ferann ann sin, ocus da teoin fein do chuirid de annsunn.

Cer.—Cis lir corannat cro ocus dibad? Nín—Cethrar; .i. athair ocus mac, brathair ocus fine.

Cer—cis lir, .i. cercaim no comaircim cia ler no cia lin isin a nurroimnter cro, coirpdire, ocus dibad fet ocus maoine ir in tellach ir nero. Athair, .i. air fein. Mac .i. a mac fein. Brathair, .i. in dearbbrathair. Fine, .i. in geilfine.

Mad ta mac ag in duine ir marb ann, isi cumal aitgena do breith do aonar, ma mairenn; ocus mana mairenn, ir a breith dia athair; mana mairenn fidein, ir a breith dia derbbrathair; mana mairenn fein, ir in tí ir nero dia breith. Is aithlaid comroimtir in coirpdire; trí cumala dire do mac ocus do athair. Tait tri cumala dire ann ar a haitle; cumal dire dib do derbbrathair, do taoib. Ataat da cumal dire ann ar a aithlestide; cumal dire dibsidi do mac ocus dathair. Ata aon cumal dire ann ar a aitle sin. A roind fein ó ta in fer iachtarach in geilfine co roige in fer uachtarach, ocus ó tá in fer uachtarach co ruige in fer iachtarach, 7rl.

Gné eile. Cach cin co cintach 7rl.

.i. cein ber cintach ar airo i crich do gres, noco ndeach a cric cona réraib, co ro leice eloid in feicheman toicheda, nocha dir inblé[ga]in brathar, no inbleidin ratha dagra, act toicheid air fein fo aigne a graid.

Mad ro chuaid in cintac a crich cona feraib, no cid i crich ata, mad ro leicustar éloid in feicheman toicheda, act mad teoit ar airo aige i crich, ir a roga in feicheman toicheda ata in atgabail gébus no in inbleidin ratha aigerus.

[1] *The lowest man.*—The original transcriber remarks here: do gébair mórán slecht aignecha air sin a córus fine mád bionn gnoithe agad fris, ocus mar roib, cár bec sin—"You will find many kinds of argument upon this in the family laws ('corus fine'), if you have need of them, and if not, is not this enough?"

What is the reason that the use of the land goes (*is set*) against the honor-price in that case, and that it does not in this?

The reason is; the person went upon the land in that case, and he did not go in this; and it was forcibly the person was put off the land in that case, and it was voluntarily he went off it in this.

Question.—How many are they who divide the chattels and 'dibadh'-property? Answer.—Four; father and son, brother and family.

Question.—How many, i.e. I question or I ask how many or what *is the* number between whom is fairly divided the chattels, body-fine, and the 'dibadh'-property, 'seds' and goods, in the nearest hearth? A father, i.e. on himself. A son, i.e. his own son. A brother, i.e. the real brother. A family, i.e. the 'geilfine'-division.

If the man who is dead in this case has a son, he takes the 'cumhal' of compensation alone, if he be alive; and if he is not alive, his father is to take it; if he (*the father*) is not alive, his brother is to take it; if he (*the brother*) is not alive, it is the nearest person to him that takes it. It is thus the body-fine is divided: three 'cumhals' of 'dire'-fine *go* to *the* son and to *the* father. There are three 'cumhals' of 'dire'-fine remaining after that; a 'cumhal' of 'dire'-fine of them *goes* to a brother, collaterally. There are two cumhals of 'dire'-fine still after this; a 'cumhal' of 'dire'-fine of these *goes* to son and to father. There is one 'cumhal' of 'dire'-fine there after that. That is to be divided from the lowest man of the 'geilfine'-division until it reaches the uppermost man; and from the uppermost man until it reaches the lowest man, &c.

Another version.—Every crime to the criminal, &c.

That is, as long as a criminal is openly in the territory always, and has not gone out of the territory with his 'seds,' until he absconds from the suing creditor, it is not proper to sue a kinsman-brother, or a kinsman-surety, but to sue himself according to his grade.

If the criminal has gone out of the territory with his 'seds,' or though it is in the territory he is, if he has absconded from the suing creditor, but if he has 'seds' openly in the territory, the suing creditor has the choice whether it is a distraint he shall make, or whether it is the kinsman-surety he shall sue.

Of every Crime.

No dono, co na beṫ a roga dó aċt aṫgabail do gabail, uair ireḋ a deir: o cintaċ co folaid.

Mad ro cuaid cintaċ a crich co na fetaiḃ, no cid a crich ata, madḋ ro leigfitar éloḋ in feicheman toicheda, ocus ní huilit feoit aige irin crích, ir a roga in feicheman toicheda ata, an inbleġoin brathar no in inbleġoin ratha aigerus. Cid be diḃ agrar, ir leir a roga; aċt ma fe a roga inbleġoin brathar dagra, ica in uiletaide uile furin idir; ocus ma fe a roga inbleġoin ratha dagra, nocha nicann aċt cert aiṫgin.

Cid fodera gach uair ir é a roga inbleogain brataṙ dagra co nicfar in uiletaidi fir, ocus gaċ uair ir e a roga inbleġoin ratha dagra, co na icfar fir aċt cert aiṫgin?

Ir e in faċ fodera; inbleġoin ratha nochar gaḃustar fride do laim aċt ic no toḃach, coir cin co ica aċt cert aiṫgin ineche fir i ndeachaiḋ, no gor leigeḋ fen eloḋ. In dinbleġoin brataṙ imurro, nochar gaḃustar fride do laim ic na toḃach, aċt amuil na roigi ċuige, iar ceimennaiḃ; ocus cóir cia ro ica in uiletaide uile; uair dubla cintaiġ ireḋ aithgin inbleġoin.

Or, indeed, *according to others*, he has not his choice, but he shall make a distraint, for what it (*the law*) says is, "from a criminal with property."[1]

If a criminal has gone out of the territory with his 'seds,' or though he is in the territory, if he has absconded from the suing creditor, and he has not 'seds' in the territory, it is with the suing creditor the choice is whether it is the kinsman-brother or the kinsman-surety he shall sue. Whichever of them he sues, the choice is his; but if it be his choice to sue the kinsman-brother, he pays the whole amount to him; and if it be his choice to sue the kinsman-surety, he pays but proper compensation.

What is the reason that whenever it is his choice to sue the kinsman-brother, the whole amount is paid to him, and every time that he chooses to sue the kinsman-surety, proper compensation only is paid to him?

The reason is:—The kinsman-surety only took in hand to pay, or to recover, it is therefore proper that he pays but the proper compensation for what he guaranteed, until he himself absconds. The kinsman-brother, however, had not taken in hand to pay or recover, but as it has come to (*or upon*) him in turn;[a] and it is proper that he should pay the complete whole; for double the criminal's *debt* is the compensation of the kinsman.

[a] Ir. *After steps.*

[1] *With property.*—The Irish may mean, also, "From a criminal to property."

Téd an fearann a cintaib.

THE LAND IS FORFEITED FOR CRIMES.

Téd an Fearann a Cintaib.

The Land is Forfeited for Crimes.

Atáim da rad go téd an fearann a cintaib dečbire ocus indečbire cintai[g], ocus for a cin in inbleogain, mar a deir an cumarc dlithe fo. Ocus a deirim na fuil do deičbir itir cin dečbiri ocus indečbiri ačt go fedaid an fine gan an fearann do tabairt a cinta indečbiri, no go curtar in cintač fein unnta ar túr; ocus nac tualaing iat a cur a cinta dečbiri no go curčar an ferann ar tus inn, mar a deir; a cinta dečbiri marbtha, a fuichí inn ar túr, ocus a annfuithi na deġa, ocus é ḃuḋein na deġa feig; ocus ma ta umarcraair, ir a dul ar cuigeb na geilfine.

O'D. 549.

Ocus; Saorad nime [cečra] fri hinbleogan .i. in cintač, a nemnéime ria na neime, a neime ria na feronn, a feronn ria na braiġid, a braiġ fa deoiġ.

An tinbleogan umorro, a nemnime ria na feronn, a feronn ria na nime, a nime ria na braiġid, a braġ-[aiġ] fa deoiġ.

A neiric foġla fin, no a briachaib cuir no connarča.

Ocus ni gaibter in cintach a cinaiḋ an inbleoġain cein ḃer tir ac in cintač; gaiber imorra, ina cintaib fein no a cintaiḃ a tigearna, iar nembeič ceča noco.

Ocus mar á deir; fithal fir gaoḋ mac aoengusa mic muiredaiġ mic Reč arbert an breč fo iar čoll fula cormaic, cuirab inn do rochair deircert mbreġ a noilri do cormac ocus dia fil.

Ocus mar adeir; Nir deilb in dia truailles načat fainnfiuḋ farraiġče; fogail fri dia noilġedač; manab tire

THE LAND IS FORFEITED FOR CRIMES.

THE LAND IS FORFEITED FOR CRIMES.

I AM saying that the land goes for crimes of necessity,[1] and for unnecessary crimes;[2] and also for the crimes of the kinsman, as this medley of laws states. And I say that there is no difference between a crime of necessity and non-necessity, but that the tribe need not give the land for crimes of non-necessity, until the criminal himself is given for them first; and that they cannot give him up for crimes of necessity until the land is given for them first, as it (*the law*) says: "*For* his necessary crimes of killing, his movables *shall go* first, and his immovables afterwards, and himself after that; and if there be more after that to be paid,[a] it shall go upon the five persons of the 'geilfine'-division."

[a] Ir. *On Him.*

And "the 'neimhe'-cattle of the kinsman are exempt *from seizure.*" That is; *as to* the criminal, his non-'neimhe'-cattle *go* before his 'neimhe'-cattle, his 'neimhe'-cattle before his land, and his land before his neck, his neck last.

But *as to* the kinsman, his non-'neimhe'-cattle *go* before his land, his land before his 'neimhe'-cattle, his 'neimhe'-cattle before his neck, his neck last.

This is in *cases of* 'eric'-fine for trespass, or in debts of bargain or contract.

And the culprit is not taken for the liability of the kinsman as long as the culprit has land; he is taken, however, for his own crimes, or the crimes of his lord, when he has not cattle.

And as it (*the law*) says: "Fithal, the truly wise, son of Aenghus, son of Muiredhach, son of Reth, pronounced this judgment after the destroying of Cormac's eye, that for it was forfeited the south of Bregia, to Cormac and his race."[3]

And as it says: "God has not formed corruption nor any particular species of violation, the merciful God deems *such*

[1] *Crimes of necessity.*—Such as killing a man in self-defence.

[2] *Unnecessary crimes.*—Such as killing a man to rob him.

[3] *To Cormac and his race.*—*Vide* note, p. 267.

The Land is Forfeited for Crimes.

tursabar, nir ice cid firmedach .i. mana gabtar tir ir in eiric, nir tursed na cintaig cid firmedam rechur forro, oir ni bera gae.

Foraidter tir naoengura .i. foraigter aongur cona tir a ndaoraigillnecht; no faraigter aongur uma tir, rt.

Foruair far for fodaigi .i. aongur ocur a braithri.

Eodraib aithre aitigi, olc aitle do rochaide .i. daongur.

Sudain raod ran rigai nim, a torcair led mbreg muige .i. a led a ndaoraicillnecht, ocur a led a raoraicillnecht.

No for ní ren adum adbadadar mar dúilé, .i. adbadadar threrin niumarbur uile dorad parradair ar adam, adbadadar ar aongur a tire.

Ocur mar a deir. Conrogla cinta cia iar negaib; ni regaid noiri didad fo iada a norba .i. ni ed fartaigter do reir norera dliged didaid na cinad gin a ndul forrna horbaib fil ir na tire.

Ocur, cia badad cenna, ni baded mbruig .i. cia marb in comarba, maired na tire.

Ocur, ar conriacha la romaine ruigter .i. ir caoin ruigter reid for in ti berir airilli an marb.

Ocur: ar id ilmaoine moigter comarbaib .i. na maoine ilardda faraid ar in tir do beired airmidniugad for comarbaib na cintad.

Ocur mar a deir; Log don lebar fo aicill ar aice demair, ocur aimrir do aimrir coirpri lirechair, ocur perra do cormac, ocur tugaid a denma caochad cormaic dengor gaebuaddtad.

Ocur. Fed focal air rin.

things atrocious;[a] unless land is given, no umpire can heal them,' i.e. unless land is obtained as the 'eric'-fine, the crimes cannot be taken away, though it be a righteous judge who estimates them, for he would pronounce no falsehood. THE LAND IS FORFEITED FOR CRIMES.

[a] Ir. *They are a trespass with.*

"The land of Aengus is placed," i.e. Aengus with his land is placed in 'daor'-tenancy; or Aengus is stripped of his land, &c.

"He brought contempt on many," i.e. Aengus and his brethren.

"With the point[1] of the sharp lance he aimed at him, evil was it afterwards to many," i.e. to Aengus *and his brethren.*

"Perpetual the thing! to maim a noble king, for which half the plain of Bregia was forfeited," i.e. one-half in 'daor'-tenancy, and the other in 'saor'-tenancy.

"For what old Adam did, great things were lost," i.e. *as* by the transgression all the fruits of Paradise were forfeited by Adam, *so* his lands were forfeited by Aengus.

And as it says: "Liabilities are distributed even after death; the new laws do not settle a 'dibhadh'-land in a territory, without dividing it in the small holdings," i.e. 'dibhadh'-lands are not settled according to the new knowledge without their going upon the *small* holdings which are in the territory.

And: "Though heads die, lands die not," i.e. though the 'coarbs' are dead, the lands live.

And: "For debts are proportioned to the profits," i.e. the debts are fairly fixed upon the person who gets the property of the deceased person.

And: "For it is various riches that magnify the 'coarbs,'" i.e. the various kinds of wealth which grow out of the earth give dignity to the 'coarbs' of the debtors.

And as it says: "The place of this book is Aicill, near to Teamhair, and its time is the time of Coirpri Lifechair, and its person (*author*) Cormac, and the cause of composing it *was* the blinding of Cormac by Aenghus Gaebuadhbtach."

And: "see a word (*judgment*) on that."

[1] *With the point.*—This and other paragraphs of the present fragment refer to the blinding of King Cormac Mac Art by Aenghus of the poisoned spear. *See* Ancient Laws of Ireland, vol. 3, p. 83.

THE LAND IS FORFEITED FOR CRIMES.

Ocur; Conbad cinaid gač bpeč.

Ocur mar a deir; Gač cin indečbiri do gni duine itir marbad ocur araill, ire fadeirin inn, ocur imle; ocur ma tarrartar fair, ir ic dia mac go ro ťocaiter innle ocur a tir ind. [Ocur iarr tuille air rin.]

Ocur mar a deir; Ma dibad decbiri, decbir cia gellar, .i. gellar a feronn ina cinntaib decbiri.

C. 1601. Luigi r[ealb] r[eat]u .i. luigter a feronn tar a cenn. Gruiči daon dibad .i. fepp fer a orba.

Ocur; A cinta decbiri marbťa, a rcuiče inn ar tur, ocur annrcuiče ana deġa, ocur é buďein na deġa riďeig; ocur ma ta imarcra ann, ir a dul ar cuigen na geilrine 7rt. rin.

Tuiniď innoligeč, ro rir, mar a deir: bera aidbriuď taiďbi cor, arbeirra friut; cor tobaiġ, cor toťlaiġ, d[ithli] cor.

Ocur; An gač tečnair do feďat micuir (.i. cor tobaiġ no eigin) nach cora i niďnartar mainib .i. noča coir iďnacal maíne inn.

Ocur; ni hetarrcara realb rariuġa, na rena renmeirliġ,
C. 2470. na fuireč for eigín, na foxal tr[enliġi nirt], na cor go forumal.

Ocur; anbal gač aon ar tuiniď tarrtačtain .i. ir anrial do gač aon tarrraiġter ina ťuiniď go hinnoligeč.

Ocur; Gell nuaťbair; ní dileр ni do berar ar uaťbar.

Ocur; Ni tabair ré na tuiníď fri cura na reimdilri, cia rocerdat taďad ilar cor fair etarra imanitер, ir do taitiď do renar.

THE LAND IS FORFEITED FOR CRIMES.

And; "Every judgment[1] shares the crime equally."

And where it says; "For every crime of non-necessity which a man commits either by killing or otherwise, he himself *shall go* for it, and his cattle; and if he is not caught (*shall be given up*), it shall be paid by his son until his cattle and his land are spent respecting it." And seek more on that subject[2].

And where it says: "If it be a necessary 'dibadh property, it is lawful though it is pledged, i.e. his land is pledged for his crimes of necessity.

"Property and 'seds' go," i.e. his land is forfeited for it.

He is nobler than any 'dibadh,' i.e. "a man is better than land."

And: "For his necessary crimes of manslaughter,[a] his movables *shall go* for it first, and his immovable property afterwards, and himself after that; and if there be excess (*more to pay*), it shall go upon the five persons of the 'geilfine'-division, &c.

[a] Ir. *Killing.*

This is unlawful possession down here, as it says: "A suit will set aside an unfair contract, I say unto thee;" *such as* a 'force'-contract, a 'claim'-contract, a 'forfeit'-contract.

And: "whenever during violence unfair contracts, i.e. of force or violence, are made, it is not proper to give goods for them," i.e. it is not proper to deliver goods in the case.

And: "Violence, or the denial of an old thief, or the withholding by compulsion, or seizure by overwhelming strength, or forced contract, do not separate possession."

And: "It is monstrous for any one to be caught in *unjust* possession," i.e. it is a shameful thing for anyone to be caught in possession unlawfully.

And: "A pledge of terror;" nothing is lawful which is given out of terror.

And: "Neither time nor possession is equivalent to any contract or pre-right, though thieves may make many contracts as to it between themselves, it is the thieves that shall pay.

[1] *Judgment.* O'D. 726 and C. 1595, for 'breth,' judgment, read 'brathair,' (brother.)

[2] *And seek more on that subject.* This is a remark by the scribe.

The Land is Forfeited for Crimes.

O'D. 2070.

Ocus; atait fecht tabarta i tuaith ata hintilri la feine, cia fonartaigther for mac ocus fraith; cor ar eigin, gell mna dinchaib, [cor tobaigh,] creic feoit gaithe, fet fonuarlaigi nemi, coibche mna nath urnaithat a foltaib techta, .i. ni dilrid na nethi rin o fer bonath an tan thaithar dligeth umpu.

Ocus; ni haclaith felb tuinith lia[n], no lobra, no anfir, no anfaitchet. Srt rin.

Ocus; airigi cona fiach gaithe an felbugh inntlighthech, mar a deirid na dlithe fo:

Ach tí do beir na techta felba ir é do fen go fiachaib taithe .i. an tí do beir ni do neoch ocus noch o na feilb buthein techtar acht ó feilb ghaithe an gadaithi, ire irrden gach fiacha taithe .i. ire icus gach fiacha gaithe .i. in gadaidi no in fir methongaithe lan intlighthech.

Ocus; mar ar eigin no mar a ngaid rugad a feoit o nech, mara marbdile iat, lan fiachaib gaidi inntib fo cedoir, amail do bethir for trebairi aithrann. Ocus mara beodile iat, lan fiach gaithe inntib fo cedoir, ocus ar, ocus lor, ocus gert do rith riu focedoir, ocus aithgin lacha ocus gnimra dairag uathaib, ut dixit leigem; quí ailiter in obilé intrat nirí i fer ortium fur ert .i. in tí tí conuir aile irin liar caerach acht tar a dorus ir amail gadaid é. Ocus ir amlaid rin ata in tí tí a feilb gan dligeth ir amail crechaire.

Ocus; gada ocus aircealla, ocus donnfollus, ocus ruatach gin tairirm, dire gaithe leo uile.

Ocus; ní forfoxla taith, no cnéid, no foghuirre, no forcumal neigne, irrenar cona fuillem, cona diablad

[1] *Imbeciles.* The word so translated is written in the MS. 'lia,' which O'Curry lengthened as in the text, but in the margin of his transcript he wrote ċ with a note of interrogation, showing he was in doubt as to the word. C. 2470, reads 'luin.'

[2] *Ut dixit Lex.*, C. 341, quotes this passage, which is taken from the Gospel of St. John, c. 10, v. i., &c., and also another which is evidently from the Lex Civilis of

And: "There are seven gifts in a territory which are *considered* unlawful by the Feini, though they are confirmed by a son and a surety; a forced engagement, the pledge of a woman to *save* her honor, a pledge of distress, the purchase of a stolen 'sed,' a 'sed' which a 'neimhidh'-person redeems, the nuptial present of a woman who does not perform her lawful duties, i.e these things are not forfeited by the true owner, when law is submitted to respecting them."

And: "Possession of land shall not be sued upon imbeciles,[1] or lepers, or ignorant or unwary persons."

And; "hence fines of theft are imposed for unlawful possession," as these laws state:—

"He who gives possession of what he does not own, it is he that shall pay, with fines for theft," i.e. he who gives a thing to another, and that he has it not of his own property but from the stolen possession of the thief, it is he that shall pay every fine of theft, i.e. it is he that shall pay all the fines for the theft, i.e. *which shall be imposed upon* the thief or the fully unlawful middle theft man.

And: "If it be by force or if it be by theft his 'seds' were carried off from a person, if they are dead chattels, full fine for theft *shall be paid* for them at once, as if they were upon the security of strangers. And if they are live chattels, full fine for theft *shall be paid* for them at once, and the growth, increase, and milk shall run with them at once, and compensation of the milk and the work shall be made by him (*the thief*) ut dixit lex[2]; 'Qui ailiter in obile intrat nisi per ostium fur est, i.e. he who enters the sheepfold by any other way except through the door, is as a thief.' And it is thus that every one who goes into possession without legal right is as a plunderer."

And: "Thefts, and plunders, and robberies, and abductions without desisting,—all incur the 'dire'-fine of theft."

And, "That which is taken away in theft, or openly, or by violence of force, shall be paid for with increase and

Justinian, and which was left out by the transcriber of Egerton, 88. It runs thus:

"Non potest raptor sive invasor rem restituere nisi restituat ejus poenam," i.e. it is not enough for the robber or the invader, to restore the thing itself unless he restores the penalty for it.

The Land is Forfeited for Crimes.

[naithgena], ma mairbdile. Maö beodile .i. maö co lor ocur infoirbairt.

Ocur; A mo Naire nuallgnaid, diamba breðem, ni

O'D. 1122. etarrcaraö innaö fri hinnam.

Ocur; ní a öuil fola neime; ni diguiğter tria aimsera; ol innuğ fceo bliöt buan, mara mardire dé diabal .i. mor raiter dire ðiabalta inn iar leigrin eloiöi; no, ir na feotaib diabalta, ce toirrit gin go toirrit; no, ir na beodile, dia toirrit aríöiri.

Ocur; Na fortéo eigin na ilarnaé .i. naö anfír faiðann fochaiðe uada é tre eigin ainðrir.

C. 2211. Ocur; Do rui cruð comraö omna [foðraiti] .i. umruiğter o neoch go hobann a ní comairberrntar uaða tre eigin anfír.

Oðoch foðraide .i. nert droðgotha fochaiðe tug do reim.

Suiðter nanbrirrne .i. ramiter do neoö a ni berar uaða tre anbrirrne.

with double compensation, if it be *a case of* dead chattels. If it be live chattels, i.e., with growth and increase. THE LAND IS FORFEITED FOR CRIMES.

And; O, my comely faced Naire, if thou be a Brehon, thou shalt not separate the increase from the cattle.

And; 'Neimhe'-property does not perish; it is not lessened by time, for the great increase and constant milk, double great 'dire'-fine shall be paid, i.e., it is said that double great 'dire'-fine shall be paid for it after absconding; or for the 'seds' of double, whether they are forthcoming or not; or for the living chattels, if they are forthcoming again.

And; "Let not violence nor the many prevail," i.e., whatever unrighteousness the many are guilty of forcing from him through unjust violence.

And; "Quickly is it set aside which was acquired by the pressure of the shouting multitude,"[1] i.e., Quickly is that thing taken from a person, which he wrested from another by unjust violence.

"The shouting of the multitude," *i.e.*, it was the force of the evil voice of the multitude that gave it to him before.

"The injustice is righted," i.e., that thing which has been taken away from one by unrighteousness, shall be righted for him.

[1] *The shouting multitude.* For 'compaċ' of the text, the reading in C. 2211 ombṗuch.

fodla tire.

DIVISIONS OF LAND.

fodla tire.

Divisions of Land.

Cirlir fodla tire? Nin—dí fodail.

Cadeat? Eatam ocus aineatham.

Cirlir [fodail] for eatam? A teora .i. eatam re a mbi eatam; ocus eatham tulcach; ocus eatam frichnama.

Eatham re a mbi eatamaib cetamus: Tir forad a mbí maith cach maith, itir it, ocus blicht, ocus lín, ocus glainrine, ocus mil, ocus froit, ocus cumrad; nach eicin do frichnam tuair na fligi; na biat glama ann. Leictir echall ina rind, na toiglean drus, na droigean, na glerligi .i. lus lenar a nedach, na homan a moing nacha lai. Are innraic andrin.

Etham taulchach imorro; Bid uirci i fuidiugad, ocus ir fuinnfide cacla maigin and, Ire maith do cach clainn ocus da cach torad olcena.

Etham frichnama; tir inbela rom i mbi maith cach clann.

Cid lir fodla antrenn? A tri. Cadeet? Nin—Antrenn ocus anmin, ocus andomain.

Anmin cotat tir raiten mag, ocus og mag. Antrenn .i. fliab fraich ocus aiteann arguidiug. Andomain; duibtir ocus moin fon.

Cerc—Cotoimrib tír cumaile? A grainni: tri grainne i norolach innraic; re orolaigi i ndorn; ocus da dorn a traigid; re traigti i ndeirceim; re deirceimeandai a nimtrit; re imtrit a lait; re laiti a forraig; re forraig i nairceand. Tír cumaile da forraig .x. dia fot.

[1] '*Glaisin*'-dye-plant. This was some kind of herb, or plant or shrub, which was used for giving wool, or flax yarn, a preparatory bluish, or greenish color probably 'woad.' *Vide* Ancient Laws of Ireland, vol. 2, pp. 370 *n.* 371, 375.

[2] '*Roid*'-dye-plant. Some sort of plant used for dyeing crimson red. *Vide* Ancient Laws of Ireland, vol. 2, pp. 420, 421.

[3] *In a hand.* In H. 3, 18 (C. 252), the Irish word is 'orolac,' an inch, which obviously a mistake. In E. 3, 5 (O. D. 1462), the word is 'bar,' the palm of the hand

DIVISIONS OF LAND.

How many are the divisions (*in quality*) of land? Answer, two divisions. DIVISIONS OF LAND.

Which are they? Arable land, and non-arable land.

How many divisions are there of arable land? Three, i.e. arable land which takes precedence of arable lands; and hilly arable land; and labour-requiring arable land.

Asto arable land which precedes arable lands firstly: An inhabited land in which everything good is good; both corn, and milk, and flax, and 'glaisin'-dye-plant[1] and honey, and 'roid'-dye-plant,[2] and sweet herbs; which does not require the application of manure or shells; in which there are no sticking plants. If a bridle-horse be let into its top grass, no briar, no blackthorn, nor burdock, i.e. a plant that sticks in clothes, nor 'oman-plant' will stick in its mane or its tail. It is in its proper condition then.

As to hilly arable land, however: There is water upon this usually, and there are ash trees in every second field of it. And it is good for every plant, and for every produce in general.

As to labour-requiring arable land; this is axe-land, in which every plant grows freely.[a] Ir. *Is good.*

How many divisions are there of weak land? Three. What are they? Answer—Weak, and coarse, and deep.

Coarse, comprises land of fern fields, and of good fields. Weak, i.e. a heathy mountain and furze upon that. Deep: This is a black land and bog.

Question—How is a 'tir-cumaile' measured? By grains: three grains in a proper inch; six inches in a hand;[3] and two hands in a foot; six feet in a pace; six paces in an 'inntrit'-measure; six 'inntrits' in a 'lait'-measure; six 'laits' in a 'forrach'-measure; six 'forrach'-measures is its breadth. A 'tir-cumaile' is twelve 'forrach'-measures in length.[4]

[4] *In ength.* The measures here are somewhat different from those in O.D. 1492, here it is said that "12 feet are a 'fertach'-measure, and 12 'fertach'-measures forrach'-measure.

Divisions of Land.

Na re fodla tiri ro tra arrubartmar, cormaili a tomur, ecormaili a loigi. Etam re mbi etammaib, cumala .iiii. bo fichit mblicht a log. Etam taulcaċ, cumala fichit mbo mblicht [a log]. Etam frićnama, cumala re mbo ndec mblićt a log. Cinmin, cumala da bo ndec reirc nairi. Cntrend, cumala da bo ndec reirc nairi. Cndomain, cumal oćt mbo reirc nairi.

Cirlir do formaig ocur loigi forr na tiraib reo?

Nin—C oendec. Caitiat raide? Rund, airgetlaċ, lathrach mailind, fligi, rot, romuir, [r]rut, roillbe, inber, gelertar, boćar.

Cia met do formaig ocur loígi caċ ae?

Ma rud, cetamur, bear ime díchud, no corraid, mad ac innraic, do formaid .x. reoit; mad ac [eir]innraic, do formaig .u. reot.

Mad airgetlaċ do méin uma no iarainn, do formaig. u. reotu.

Mad lathraċ renmuilaind do formaig. u. reotu.

Mad fligi adcumaid o thír co flaiṫ, no maimirtir, do formaig .iii. bu.

Ma romuir conta cinaid cairac torach, a tír cumaile do formaig.

Mad frut a toib no aircind combi diranda lair, ir cumal a do formaig.

Mad roillbe dono adcuma, ir cuma[l] do formaig.

Ma inber do necma, it .u. reotu do formaig.

Mad gelertar nemtraig, it leṫ .u. reotu.

Mad rot nairceand roraid rud, no romuir, no roillbe, ir bó do formaig.

Mad bothur fligi do arcnam gellertair, no tíre, no tir bír itercein, no fligi maire, ir colpach do formaig.

Ite andro comperta mbroga ro a luibid ocur a rcoṫa buide; rath ocur og rath,

Finit do tir cumaile.

[1] *Its herbs.* Over the 'd' of the word 'luibid,' there is written in the MS. 'b, intimating, probably, that the reading should be 'luibib,' the correct form of the dative and ablative plural.

As to these six divisions of land now, which we have mentioned, their measurement is alike, their price is unlike. Arable land which precedes arable lands, 'cumals' of twenty-four milch cows is its price, *i.e. of the above measure.* Hilly arable land, 'cumals' of twenty milch cows is its price. Labour-requiring arable land, 'cumals' of sixteen milch cows is its price. Coarse land, 'cumals' of twelve dry cows *are paid* for it. Weak land, 'cumals' of twelve (? *ten*) dry cows *are paid* for it. Deep land, a 'cumal' of eight dry cows *are paid* for it.

How many things add to the price of this land?

Answer—eleven. Which are they? A wood, a mine, the site of a mill, a highway, a road, a great sea, a river, a mountain, a river falling into the sea, a cooling pond *for cattle*, a road.

How much does each *of these* augment the value?

If it be a wood, firstly, around which there are two dykes, or a stone wall, it adds ten 'seds,' if in the possession of a worthy person; if in the possession of an unworthy person, it adds *but* five 'seds.'

If a mine, of copper, or of iron, it adds five 'seds.'

If the site of an old mill, it adds five 'seds.'

If it be a way which leads from a land to a chief, or to a monastery, it adds three cows.

If it be a great sea which has productive rocks (i.e. *producing* '*duilesg*'), 'it is a tir-cumaile' it adds . . .

If it be a river at its side or head, which has a waste place, it is a 'cumal' it adds.

If it be a mountain now in the same condition, it is a 'cumal' it adds.

If it be the mouth of a river that happens *to be there*, it is five 'seds' it adds.

If it be a cooling pond which does not become dry, it is half of five 'seds' *it adds.*

If it be a head-road which leads to a wood, or a great sea, or a mountain, it is a cow it adds.

If it be a road-way that leads to a pond, or land, or to a land that is far away, or to a highway, it is a 'colpach'-heifer it adds.

Such then, are the productions of land, with its herbs[1] and its yellow flowers . . . 'rath' and 'ograth.'[2]

'Finit' of 'tir-cumaile.'

[1] '*Rath*' *and* '*ograth.*' The MS. seems defective here.

De fodlaib cineoil tuaiti.

OF THE DIVISIONS OF THE TRIBE OF A TERRITORY.

De fodlaib cineoil tuaiti.

Of the Divisions of the Tribe of a Territory.

Ni tualaing brethemnachta for fine na fuidri nad fiartar a netarfcaitha, ocus a ndire, ocus a cain, ocus allog a nenech.

Ni tualaing .i. noco cuimgeć breitemnacta do rein ind fenećair for fine na fodaer. Nad fiartar .i. re re trir, no eatarfcarad na fine ocus na fuidre fri a flaith. A ndire .i. cia beser dire a ndula. A cain .i. trian a fmacta cana. Allog a nenech .i. log enech ar a tochur ać trian; fean fon cen felb cen tothchur 7 rl.

Cir lir fodlai fine la feine?

Ite fodlai fine cacha flatha; a fuidri, a cinniud, a gabail fodagniat, conid ainm doib uile flaithe fine.

Cir lir .i. cia lear no cia lín do na finib fodeilgtir and. Ite .i. itiat fo na fine [fo]deilgtir and. A fuidri .i. faeraid re re trir, .i. in daerboćać ar in ećtramad fir; in fencleithi irin .u.eć fir.

Cair—Cir lir fini tuaithe, ocus cid inetarfcarat? Ite fine cacha tuaithe, geilfine, deirbfine, iarfine, indfine, deirgfine, duibfine, finetaccuir, glasfine, ingen ar meraib. Duufine, ir ann diba finntedaib.

[1] *Three.*—These three classes of persons are described in O'D., 999.

[2] *Free.*—See O'D., 1346 (E. 3, 5, p. 20, col. 2).

[3] *A 'sencleithe-person.*—On the term 'Sencleithe,' Professor O'Curry remarks, 'Fuidhir'-tenants who were in the occupation of land during the reigns of four

OF THE DIVISIONS OF THE TRIBE OF A TERRITORY.

He cannot exercise judicature for the tribe of the 'fuidhir'-tenants unless he knows their separations, and 'dire'-fine, and their 'cain'-law, and their honor-price.

He cannot, i.e. he cannot exercise brehonship, according to the 'Fenechus'-law, upon the tribe of the inferior bondsmen ('fo-daer'). Unless he knows *their separation*, i.e. during the time of three, or the separation of the family and members of his tribe, and the 'fuidhir'-tenants from the chief. 'Dire'-fine, i.e. who gets 'dire'-fine for *injuries done to* their cattle. 'Cain'-law, i.e. the third of their 'smacht'-fines in 'Cain'-law. Their honor-price, i.e. the honor-price of every 'fuidhir'-tenant except the 'daer-fuidher'-tenant, or honor-price in proportion to their property except three;[1] this is a man without land or property, &c.

How many are the divisions of a tribe (*or family*) with the Feini?

These are the divisions of the tribe of every chief; his 'fuidhir'-tenants, his kinsfolk, his 'gabhail fodagniat'-dependants, all of whom go by the name of 'flaithe-fine'-persons.

How many, i.e. how many or what number is there of the tribes who are divided. These are, i.e. these are the tribes who are divided therein (*in the 'Fenechus'-law*). His 'fuidhir'-tenants, i.e. they become free[2] during the time of three persons, the fourth man *in succession* is called a 'daer-bothach'-person; the fifth man a 'sencleithe'-person.[3]

Question. How many are the family divisions of a territory, and how do they separate?

These are the family divisions of each territory:—'geilfine,' 'deirbhfine,' 'iarfine,' 'innfine,' 'deirghfine,' 'duibhfine,' *to which are added* 'finetacuir,' 'glasfine,' 'ingen ar meraibh.' These are of the tribe, it is here the tribe ends.

kings, or the chieftaincy of four chiefs, were so called; afterwards their descendants could never become free.—*Vide* C. 1212, 2184.

Of the Divisions of the Tribe of a Territory.

Selsine co cuicer; isiaide gaiber dibad cach cind comacuis dineoch diba uaid.

Derbsine co noidbor; ni daba haaide cobsaind so lin cenn comocuis.

Iarsine co tri fersaib dec; ni beisid acht cethramthain di chin na somane, di orbu na saetar.

Indsine co .uii. fisu dec; consanna cadeirsin sinted dineoch diba uaide, amal ber choir. Duthaig duine otha sen, is ann scarait sinnthea.

Dergsine isside cruess; ni diba huaide; ni cobsannaide sinntea, isech icaid cinnta comoccuis.

Dubsine isside dombeir fir noilleg na sintar imbi fir so anfir; ni cobsanaide sinnthea condatuice fir caise no cranncuis; is iarum consanna cethraimthain sri indsinde.

Finetaccuis isside dombesat cuis bel a soessam; ni cobsannaide dan sinnteda acht ni i fuiredar cuis bel.

Slassine mac mna ditini besed do albanach; ni gaibsaide acht orba niad, no duthsachta dedlaid sri sine.

[1] *As 'dibadh'-land.*—Land that devolves to them by the extinction of a kin family division.

The 'geilfine' *extends* to five persons; it is they that get the 'dibadh'-property of every kindred chief who leaves 'dibadh'-property.

The 'deirbhfine' *extends* to nine persons; their 'dibadh'-property is not divided according to the number of kindred heads.

The 'iarfine' *extends* to thirteen men; they get only the fourth part of fines, or of profits, of the ground, or of labour.

The 'innfine' *extends* to seventeen men; they divide among themselves, as is right, whatever part of the tribe lands is left as 'dibadh'-land.[1] From this forth it is *a case of* a community of people, it is then family relations cease.

The 'derggfine' is that which has shed blood; no 'dibadh'-property comes from them; they receive no share of[a] the tribe-lands, although they pay for the crimes of their kinsfolk.

[a] Ir. *They divide not*

The 'dubhfine' is that which tenders the test of an ordeal whereby is known whether it be truth or falsehood *concerning it*; they receive no share of[a] the family land until they have tendered the proof of the cauldron,[2] or of the lot; it is after this they receive the fourth of the share of the 'innfine'-division.

The 'fine-taccuir' are they who give verbal contracts in adoption; they receive no share of[a] the tribe lands except what is acknowledged by verbal treaty.

The 'glasfine' is a son whom a woman of the family has borne for an 'Albanach'; he receives but the land of a champion, or of a 'duthracht'-person, that has separated from the family.

[2] *The cauldron.*—A sort of ordeal; *vide* O'D., 1324–25 (E. 3–5, p. 16, cols. 1, 2)

[3] *An Albanach.*—A native of Alba, an ancient name for the modern Scotland.

[Of the Divisions of the Tribe of a Territory.

Ingen ar meraib; iruide dodnidnaig cluair do cluair do comcenuil; dedlaid fri fine, conranna-fide finnteda on med addaimther ifini.

Duthaig do fine ni cobrannaide eitir, if ann diba fintedaib.

Finte fuidir co tafille fodail; fonenmuin moigethar mac fria athair, ocus ni fen in tathair ni fech macu, fech ua, fech iarmu, fech indue.

Cair .i. comaircim cia ler no cia lín drimib bir irin tuaid .i. o ta na fect frru dec amad. Deirgfine .i. indifini fingalad. Duibfine .i. into fini taide. Finetaccuir .i. na meic foerma. Glarfine .i. gabair tar glar na fairge. Duufine .i. dudaig daeine. Diba finnteda ib .i. conad ducar fine e acht dudur daeine. Gelfine co cuicer .i. cuicer bir i ngeilfine. Iriaide .i. iride gabar diba gach cind rocomoicrigedi, no don chin dian ar comacri in diba. Dineoch .i. do neoch didbar uaiti. Dibad gelfine cobrannaic na cetheora fine fo fir. Derbfine .i. co nadgabail in cuicfir na fini romaind .i. in ni didbar uaiti dan fini. Cobraind .i. comraintir a diba fa deig fo miad na cend ra comaicrigedi, do in ninnbaid if en fear don fini fo didba and; no fo miad ceand na teora fini, in ninbaid iri ind fini mic fo didba and. Iarfine .i. co nadgabail in da fine romaind. Cethramthain .i. ar teora ceadramta na cetramti diba geilfine. Di chin .i. laime. Somane .i. innile. Di orbu .i. dfearand. Saetur .i. da fcuigtib, no do fridgnam. Indfine .i. co nadgabail na tri fini romaind. Conranna .i. urrandaid feig budein ini if dudaig da fini inti ada eibleftar uaiti. Amal .i. amail dligef. Ber choir .i. o ta na .uii. frru deg

[1] *The 'ingen ar meraib;'* Literally "the nail on the fingers."

[2] *A territory.*—According to Dr. O'Donovan, a 'Tuaith' is also called a 'cinnament' in the county Antrim.

[3] *Deirgfine.*—They were those who were guilty of the murder of a brother family-man, i.e. any one of the seventeen men of the four principal divisions.

[4] *Of a people.*—The seventeen men next in point of relationship by blood to the chief enjoyed peculiar privileges, but all outside these were considered the people, not the family, or tribe, or sept.

[5] *'Geilfine,'* i.e. white family. Dr. O'Donovan says:—These were the chief's immediate family, including himself, the seniors being always preferred to the juniors, as far as five persons, i.e. his uncles, his brothers, his sons. But *vide* Sir Henry Maine, Early History of Institutions, pp. 209–216.

The 'ingen ar meraib';[1] it has passed from ear to ear that it (*this division*) is of the family; it separates from the family, but it obtains a share of the family land, inasmuch as it is acknowledged as of the family.

The land of the family is not at all divided; it is here the family (or tribe) ends.

The families of the 'fuidhir'-tenants are subject to manifold divisions. The son is enriched in the same ratio as the father, and the father does not sell anything to the prejudice of[a] his sons, grandsons, great-grandsons, or great-great-grandsons.

[a] Ir. *Beyond.*

Question, i.e. I ask how many or what number of families there are in a[a] territory,[2] i.e. from the seventeen men out. 'Deirg-fine'[3] (red family), i.e. the fratricidal family. 'Dubhfine' (black family), i.e. the uncertain family. 'Fine-taccuir,' i.e. the adopted sons. 'Glasfine' (green family), i.e. which is got over the azure surface of the sea. These are of the tribe, i.e. the community. The tribe ends, i.e. it is not the property of a family, but of a people.[4] The 'geil-fine'[5] to five persons, i.e. there are five persons in the 'geilfine'-division. They *get*, i.e. they receive the 'dibadh'-property of every chief *or* head of a family who is related to them, or the 'dibadh'-property of the chief to whom they are nearest of kin. Each *who gives*, i.e. who becomes extinct of them. The 'dibadh'-property of the 'geilfine' is divided among the four families down here.[6] The 'deirbfine' *to nine persons*, i.e. with the inclusion of the five persons of the family *division* before mentioned, i.e. the thing which devolves from them to the family. Is divided, i.e. the 'dibadh'-property is distributed according to the dignity of the heads who are related to him, when it is one man of the family that has left the 'dibadh'-property; or, according to the dignity of the heads of the three families, when it is the young man of the family that leaves 'dibadh'-property. The 'iarfine' (after-family) *to thirteen men*, i.e. with the inclusion of the two families before mentioned. The fourth part, i.e. three quarters of the quarter of the property which devolves from the 'geilfine'-division. Fines, i.e. *for crime* of the hand. Profits, i.e. of cattle.[7] Of the ground, i.e. of the land. The labour, i.e. of moveables, or of service. The innfine *to seventeen men*, i.e. with the inclusion of the three families before mentioned. Divide, i.e. they themselves divide what is due to the family of the person who died from among them. As *is right*, i.e. as the law directs. *As* is

[a] Ir. *The.*

[6] *The four families down here.*—The gloss is interlinear and appears to be incorrect.

[7] *Of cattle.*—That is, the milk, butter, calves, hides, &c.

Of the Divisions of the Tribe of a Territory.

O'D. 736.

amaċ. Is ann sca[r]ait .i. co naċ fine dutchaig e ohein imaċ acht dutċaig daeine; [no is ann scarait cobrainn ferainn ocus cinaid; no is ann sibus in cairdes; no is ann sibait na ceitre fine.] Dergfine .i. in nine fingalaċ. Isfeda .i. isfisiḋe marbas neaċ dond fine, go nsibṡa and uaiti. Ni cobrannaide .i. nogo comraindend feis dutċaig na fini. Isech .i. feiċim no indraigim, gu nicand cinta in ti ra comaigsigeḋ do. Dubsine .i. ind fine taiḋe .i. fine contabartach. Isfeda domberr .i. isfisiḋe da berr isind fini gu fir luigi da fartad. Noilleg .i. in don fine iad no naċ eaḋ. Ge da nitet ar naill, ni randa orba cona tuga fir caire no crannchair. Mac lia duibsine, is ceċraime in orbo doib; mad comlin, is ceathraime beos; mad uaite, is ceathraime chota each fir thall do each fir amuiġ. Fir caire .i. da fartoḋ anund. Is iarum .i. is iar na fartoḋ usrundus ceċramṫi fris in ti bis ar a ċind isand fini. Finetaccuir .i. na meic foerma. Isfeda .i. is iadraiḋe faesidnigṫir ar trebaire go coir o belaib. A foerram .i. no go comraindend feis dibaḋ acht ini faesidnigter e .i. in ni gellar doo.

Atait ordaiġṫe imda forr na macaib faorma .i. mac faorma do geilsine, ocus mac faorma do derbsine ocus mac faorma do eċtar fine. Mac faorma do geilsine, beisidside cuit isin fine itir brud ocus fearann, manab tar briaġait fine. In mac faoram, imorro, do derbsine, manar tar briaġaitsine, beisid uili in fearann acht a ċuit isin do brud iar nsul anunn don gairi. Mana for feḋmi fine, ocus ni farus doiḃ ar aiḋe, is ann is faoram caich fo miaḋ. Seaċt cumala o riġaiḃ, leṫ seaċt cumala o graḋaib flaṫa, tesra cumala o gaċ bancomarba, da cumail gaċ ocairi, ocus gaċ boairi; ocus co tormaċ felḃ isfo uile. Mana torma felḃ, ocus is mac faorma ar fearis, ocus ni tar briaġait fine, is .uii. maḋ gaċa rainne dib fo uile .i. do na

[1] *Of a people.*—All other persons inhabiting the territory are considered the people, and have not the same privileges as the four classes consisting of seventeen men already mentioned.

[2] *The doubtful tribe.*—That is, of whose pedigree a doubt had arisen. Dr. O'Donovan here refers to the story of "Donall na gcroicenn ('of the skins') O'Donovan;" also to that of "Teigue an eich bhain ('of the white horse,') O'Donovan" who returned to Carbery under the name of 'Burke,' and proved his being an O'Donovan, and got a share of the land of his sept.

[3] *To retain them.*—Here the singular number is used by an error in the original

right, i.e. from the seventeen men out. It is then they separate, i.e. so as that it is not the territory of a family, but the territory of a people[1]; or it is here the subdivision of land and liability separates; or it is here the relationship becomes extinct; or it is here the four families become extinct. The 'derggfine' (red family), i.e. the fratricidal tribe. Is that *which has shed blood*, i.e. which has killed one of the family, so that their 'dibadh'-property is forfeited from them for it. They receive no share, i.e. these share not in the family inheritance. Although, i.e. *even though this is the case, still* I maintain and insist that they must pay for the crimes of the person who is related to them. 'Dubhfine' (black-family), i.e. the tribe of secrecy, i.e. the doubtful tribe.[2] Is that which tenders, it is this that offers to the family the test of an oath for its retention. *The test of* an ordeal, i.e. whether they are of the family or not. Though it should be allowed *that they are of the family* after an oath, *still* the lands are not divided until they give the proof of the cauldron or of the lot-casting. If the 'duibhfine' be more numerous *than the tribe they claim to be of*; the fourth part of the land is *given* to them; if they be of equal number, the fourth part is likewise theirs; if fewer, the fourth of *what is* the share of each man within *the tribe* is given to each man without. Proof of the cauldron, i.e. to retain them[3] within *the tribe*. It is after this, i.e. after being retained they share one-fourth with the person who is at the head of the family. The 'finetaccuir,' i.e. the adopted sons. Are they who, i.e. these are they who are acknowledged by the proper guaranty of oral contract. In adoption, i.e. they do not share in the 'dibadh'-property, but as much as is acknowledged, i.e. the thing which was promised to them.

There are many regulations respecting the adopted sons, i.e. an adopted son of the 'geilfine,' an adopted son of the 'deirbhfine,' and an adopted son of an extern tribe. The adopted son of the 'geilfine' gets a share among the tribe, both in house and land, unless *he has been adopted* against the will[a] of the tribe. But the adopted son of the 'deirbhfine' if *he has* not *been adopted* against the will[a] of the tribe, shares in all the land, but he has his share of the house *only* after having gone over *into the family* to be taken care of. Unless *adopted* without the consent of the tribe, who are in consequence insulted, it is then the adoption of each is according to his dignity. Seven 'cumhals' *are due* from kings, half seven 'cumhals' from those of chieftain grade, three 'cumhals' from every female 'comharba,' two 'cumhals' from every 'ogaire'-chief, and 'bo-aire'-chief; and all this to be augmented with increase of stock. If there be no increase of stock, and the adopted son has been adopted from affection, and not to the prejudice of[a] *one of* the tribe, it is the seventh of each of these divisions *that is given to the adopted*

[a] Ir. *Over the neck of*

[1] The 'dubhfine' may consist of one man only, and when he is proved, by the tests of oath and ordeal, he gets one-fourth the property of a man of the tribe as to whose membership no question had arisen.

Of the various Divisions of the Tribe of a Territory.

ṙeċt cumala, ocuṙ do leṫ na .uíí. cumala ocuṙ do na teoṙa cumala, ocuṙ do na ði cumala. Mád taṙ bṙaġaiṫ imoṙṙo, neiċ dib itiṙ, in mac ṙaoṙma do ainṙine, iṙ iṙiḋe ġaibeṙ in cíṙ nincíṙ. Ocuṙ .uíí. cumala a loġṙiḋe do ġṙeṙ, manaṙ taṙ bṙaġaiṫ ṙine; mad taṙ bṙaġaiṫ ṙine, ni beiṙ cid loġ a ṙaoḋaiṙ.

Ġlaṙṙine .i. ġabaiṙ taṙ ġlaṙ na ṙaiṙġe .i. mac muṙcuiṙṫe .i. mac eiṙṙiḋe beṙeṙ bean don ṙine ḋalḃanaċ. Oṙba niad .i. ṙeaṙand ġoṙmeic .i. meic ṙeaṫaṙ, loġ cumaile. Deḋaid .i. deḋiġid ind ṙine ḋo. Ingen aṙ meṙaib .i. caċ ġa naḋa iṙ ḋan ṙíni hi. Doḋnonaiġ .i. aṙ a ṙoṫ uait ata, ocuṙ o do cuaid. Cluaiṙ .i. ġleṙiṙ índ ṙiṙ ṙeo da ġleṙiṙ índ ṙiṙ ele. Deḋaid .i. co nach acu ṙo bui .i. deḋaiġiḋ ṙi ṙiṙ in ṙine, ġu mi na neġmaiṙ, aṫaċ. On med .i. on uaiṙ aidonigid innund hi ṙan ṙini. Duthaiġ do ṙine .i. oṫa na .uíí. ṙiṙu deġ amaċ. Cobṙannaide .i. in diḃad. Finde ṙuidiṙ .i. ata ṙodeilíuġud ṙillti ṙoṙ ṙini na ṙodaeṙ. Ṙon enmuin .i. iṙ ṙonae innand líum da beiṙ mouġuḋ maeineaċ aṙ a naṫaiṙ ṙe ṙe buḋein e, ocuṙ aṙ in mac iaṙ ṙe in nataṙ. Ni ṙen .i. noco ṙacta don aṫaiṙ he. Ṡech macu .i. na ġeilṙíni. Ṡech indue .i. na ġeilṙine.

[1] *Rackrent.* Explained in C. 807 (H. 3, 18, p. 373 b.), as a milch cow worth a sack, every month to the end of a year.

[2] *Of his labour.* Following this commentary, on the right hand margin of the page is a remark by the scribe, which according to Dr. O'Donovan, is in the handwriting of Egan MacEgan, who says he wrote it in the mill of Duniry, in the county Galway, A.D. 1575, as an improvement on his own decayed old book.

[3] *The nail on the fingers.* This last section of the tribe cannot be deprived of whatever property it is entitled to by its rank in the pedigree.

[4] *The sons*, i.e. should the fourth generation be of age before the death of the progenitor, the latter cannot sell the property without their consent, nor they without his.

[5] *The geilfine.* On the foregoing tract Dr. O'Donovan observes:—From the preceding account it is clear that there were in every tribe inhabiting a 'tuath' or territory seventeen persons who constituted the whole 'Fine,' or pure tribe, and who enjoyed certain privileges that none of the other inhabitants were entitled to; that these seventeen men were divided into four classes, which respectively exceeded each other in dignity, according to their place in the pedigree and their relationship to the reigning chief. These four classes were known by the following names:—

1. 'Geilfine,' which consisted of 5 men;
2. 'Deirbhfine,' consisting of 4 men;
3. 'Iarfine,' consisting of 4 men;
4. 'Innfine,' consisting of 4 men.

But it must be understood that the 'Geilfine' obtained their share of all legacies in land or chattels which devolved from any individual of their own class, as well as from any man, or number of men in the other classes beneath them. The

son, i.e. of the seven 'cumhals,' and of half the seven 'cumhals,' and of the three 'cumhals,' and of the two 'cumhals.' But if it be in preference to[a] any one of them, the adopted son of an extern tribe *is adopted*, he then gets the rack-rent.[1] And his price is always seven 'cumhals,' unless *adopted* to the prejudice[a] of the tribe; if *adopted* in prejudice[a] of the tribe, he does not get even the price of his labour.[2]

[a] Ir. *Over the neck of.*

'Glasfine,' i.e. that is, who comes over the azure *surface* of the sea, i.e. the son of a sea-sent person, i.e. he is a son who is borne by a woman of the tribe for a native of Alba.[b] Land of a champion, i.e. the land of a 'gormhac,' i.e. of a sister's son. Separated, i.e. which the tribe have allotted to him. The nail on the fingers, i.e. when all are *positive in* asserting that he is *one* of the tribe. It has passed i.e. it is far from you it is, and it has gone. Ear, i.e. the clear knowledge ('gle fís') of one man added to the clear knowledge of the other. It separates, i.e. so as that it is not with them, i.e. it separates from the tribe, so that it is away from them for a while. In as much as, i.e. since they acknowledged *and received* it into the tribe. The land of the family, i.e. from the seventeen men out. Divided, i.e. the 'dibadh'-property. The families of the 'fuidhir'-tenants, i.e. there are manifold divisions as regards the tribe of the 'fo-daer'-persons. In the same ratio, i.e. I hold that it is the same thing which brings increase of wealth to the father in his own time, and to the son after the father's time. Does not sell, i.e. the father shall not sell it (*the increased wealth*). Of the sons,[4] i.e. the 'geilfine' of the 'fuidhir'-class. The great grandsons, i.e. the 'geilfine.'[5]

[b] Ir. *An Albanach.*

'Deirbhfine' obtained no share of the 'dibadh'-property left by any of the 'Geilfine;' but they shared in the 'dibadh'-property which devolved from any member of their own rank, and had their share also of all the 'dibadh'-property left by any members of the 'Iarfine' and 'Innfine.' The 'Iarfine' had no 'dibadh'-property from the 'Geilfine' or 'Deirbhfine,' but they shared all that was left by any of their own class, and also received dividend of all 'dibadh'-property left by the 'Innfine.' The 'Innfine' or lower class received no part of the 'dibadh'-property left by any of the three higher classes, but they shared in all the 'dibadh'-property left by any man of their own class. The commentator reverses the numbers. He should have explained them thus:—

1. The 'Geilfine' represented 17 persons, viz., 5 of their own rank, and 12 of the other classes.
2. The 'Deirbhfine' represented 12 persons, viz., 4 of their own class, and 8 of the lower classes.
3. The 'Iarfine' represented 8 persons, viz., 4 of their own class, and 4 of the 'Innfine.'
4. The 'Innfine' represented their own class only, which consisted of 4 persons.

The 'Dergfine,' 'Duibhfine,' 'Fine Taccuir,' 'Glasfine,' and harlots, were exceptions to the other four.

O'D. 454. Innrine co rechт reru d[ec].

Innrine ari ir rine dib. Innua innrine, athuir iarrine ; innua iarrine, athuir derbrine ; inua derbrine, athuir gelrine. Ho, dono, iar cetrurd, cumad cuicer a ngelrine, ocus cethruir in gach rine ot rin amach. Ma ro dibadur na ceithri rine, in ti ir nera i nduchaid daine tuar do breith in dibaid, ma ro dibad duthaid daine, in ti ir nera i ninnrine do breith in dibaid.

Dergrine.

In gingalach. Beruit rine a dibadridhe, ocus ni berait a cinuid. Beridrim cin na rine, ocus ni beirinn a ndibad ; no, o innrer, ocus o ercrius iar cetrurd, co mberad dibad athuir ocus mathuir ocus in dibad ar rut, ocus co na berad do cul no do taib.

In gingalach, o do dena pennuit ocus eiric, no éric a mignima, beirid a cuit do dibad a athuir ocus a senathuir, ocus nocha mbeirinn a cuit a mbrud dibad na rine. Ocus mun dernuid pennuit ocus eric, nocha beirinn a cuit do neochur de.

Dergrine .i. in gingalach cia binnid, ocus cia ercrius, nocha mbeirinn ni do dibad rguithi na anngguithi na rine ; no, dono, nocha mbeirinn dibad a comrocuir co ro binne ocus co ro erce ; ocus o binnrius ocus o ercrius, beirid dibad rguithi ocus anngguithi ar rut, ocus noca beirinn do taib ; no dono cena, co rucad dibad rguithi ocus anngguithi ar rut ocus do taib, o binnrius ocus o ercrius, amuil gach duine dligdech don rine.

The following Commentaries on some of the foregoing subdivisions are found in O'D. 454, &c. O'D. 454.

The 'Innfine' to seventeen men.

'Innfine' is the remotest of them. When 'innua'[1] is 'innfine,' the father is 'iarfine;' when 'innua' is 'iarfine,' the father is 'deirbhfine;' when the 'innua' is 'deirbhfine,' the father is 'geilfine.' Or, according to the opinion *of others*, the 'geilfine' consists of five persons, and every family from that out of four persons. If the four families have become extinct, the person who is next to them in the community of the people upwards obtains their 'dibadh'-property. If the community of the people become extinct, the person next them in the 'innfine' shall obtain their 'dibadh'-property.

'Deirgfine.'

That is, the fratricidal. The tribe obtain their 'dibadh'-property, but are not responsible for their crimes. They are responsible for the crimes of the tribe, but do not obtain their 'dibadh'-property; or, according to the opinion *of some*, they are to get the 'dibadh'-property of their fathers and mothers, and 'dibadh'-property in the direct line, but not backwards or laterally, after they shall have done penance and paid 'eric'-fine.

The fratricide, when he has done penance and *paid* 'eric'-fine, or 'eric'-fine for his evil deeds, shall obtain his share of the 'dibadh'-property of his father and of his grandfather, but he does not obtain a share of the house 'dibadh'-property of the tribe. And if he has not done penance or *paid* 'eric'-fine, he shall not obtain his share of either.

'Deirgfine,' i.e. the fratricide, though he should do penance and pay 'eric'-fine, shall not obtain any part of the 'dibadh'-property in moveable or immoveable property of the tribe; or *according to others*, he shall not obtain the 'dibadh'-property of his nearest of kin until he does penance and pays 'eric'-fine; and when he has done penance and paid 'eric'-fine, he shall obtain the moveable and immoveable 'dibadh'-property in the direct line, but not in the lateral line; or, *according to others*, he obtains the moveable and immoveable 'dibadh'-property in the direct and lateral line, like every lawful person of the tribe, after he has done penance and paid 'eric'-fine.

[1] *Innua.*—This is the fourth generation from the original father, and therefore the 'innfine.'

O'D. 454.

Dubfine ar 1 dombeir fiar noillec.

.i. fine cunntabartaċ .i. mic ċaiṙe.

Ce daṁċur ar noill, ní fanna orba cun do tuca fir cairi no crannċuir. Mic na mban taiġe, cé no gaḃta aoen no deṙe diḃ do cum na fine co fir no co fetuiḃ faoefṁa, ma fo forbriar co bfuilet coimlín fine, if ecin fir de anorg dia fartaḋ; no, dono, comaḋ ann fo beṫ in fir dé fo lair, iar nemfadbail firi daoine; ocus da ḃfadbaḋ fir daoine do geuḃta uada, ocus do ceṫrumaín ada é if in fine cus a tic, ocus cutruma berus ocus gaċ fer dligṫeċ irin fine.

Fri hindfine; aċt iarum cunfandа cethruiṁe.

.i. ifi in cethruiṁe fer infinde í; no if cethruime ċota caċ mic dligṫiġ do ar a denuṁ a taidiur. Ma lia dubfine, if cetruiṁe in orbu doiḃ; ma coimlín if cetruime; ma uaire if cetruiṁe cota caċ fir tall do caċ fir amuiġ, fo ċoimlín. Amuil beirius infine cetruiṁe do diḃaḋ ġelfine, beirid [d]uibfine cethruiṁe ċota fir do diḃaḋ, ocus tír a aċur uile.

Duine fin ata re fine amuiġ co fuil coimlín fine, ocus daiṫi aindligiḋ air beṫ re fine amuiġ co na gabur anunn e can fir de lair.

Cid fir daoine do gabur, ocus iar na fartaḋ, caċ ni do roindeḋ roiṁe, can ní dorum de; ocus caċ ní tarrid gan roinn, co naċ bfuil aċt cetruiṁe cotaċ caċ mic dligṫiġ do caċ mac indligṫeċ. No, dono, comaḋ ann no beṫ fir dé uada in tan na fadbaiḃ fir daoine; ocus coma[ḋ] and fo beṫ cetruiṁe cotaċ ċaċ mic dligṫiġ do, ainínbuiḋ na fuair aċt triur ar a ċinn ċall irin fine, ocus gaċ ni fo roindeḋ roiṁe ifa cuit do de; no, dono, if cetrur ata irin fine cus a tic, ocus cutruma beirius ocus cach fer dligṫeċ if in bfine cus a ticc.

[1] Over the 'in' at the beginning of this word there is written, apparently by another hand, ind, intimating probably that the word should have been 'indfine.'

The 'dubhfine' is that which offers the test of the ordeal oath. O'D. 454.

That is the doubtful tribe, i.e. secret sons.

Though they are acknowledged by oath, they shall not get a share of land until the test of the cauldron or lot-casting is given. *As to* the sons of the secret women, though one or two of them may be taken into the tribe by a test or with 'seds' of adoption, if they have multiplied so as that they are as numerous as the tribe, the test of God is then necessary to retain them *in the tribe*, or, *according to others*, the time that this test of God is required is when the tests of men have not been procured; but if the tests of men have been procured, they shall be received through them, and to the fourth part of *the lands of* the tribe to which they come, they are *entitled*, and they shall obtain a proportion of it equal to that of every lawful man in the tribe.

As regards the 'innfine;' but afterwards they share in the fourth part *of the possessions*,

That is, it is the fourth man in the 'innfine[1];' or it is the fourth of the share of each legitimate son he (*the son of secrecy*) obtains when he has been begotten in secrecy. If the 'dubhfine' be more numerous *than the whole tribe*, they obtain the fourth part of the land; if they are of equal number it is one-fourth *they get*; if they are fewer, it is the *equivalent of the* fourth part of *the property of* every one within that is due to every man without according to equal number. In like manner, as the 'innfine' obtains the fourth of the 'dibadh'-property of the 'geilfine,' the 'dubhfine' obtains the fourth of a man's share of the 'dibadh'-property and all his father's land.

This is a person who has been with a tribe outside until he has become equal in number with the tribe, and it is to avenge his illegal act upon him for having been with a tribe outside that he is not received within (*into the tribe*) without his having the test of God.

Though it be the test of men that is accepted, and after he is retained *by it*, he shall not receive any part of what was divided before; and, of whatever remained without being divided, the illegitimate son gets but the one-fourth of the share of each legitimate son. Or, indeed, *according to others*, the test of God is required when the test of man has not been obtained; and it is then he gets the fourth of the share of each legitimate son, when he found but three persons before him in the tribe within, and of everything that was divided before, he shall get his share; or, *according to others*, if it be[a] four persons that are in the tribe to which he comes, he shall then get an equal share with every legitimate man in the tribe to which he comes.

[a] Ir. *It is.*

cʀıtḣ gaḃlaċ.

CRITH GABHLACH.

CRITH GABLACH.

CRITH GABHLACH.

Cid arna neiper crith gablach?

Nin.—Ar indi crenar in fear tuaithe dia dagfoltaib hi tuath co nairmither ina gra[d] tecta imbi i tuath. No, ar a lin do gablaib i fodlaither gra[d] tuathe.

Cair.—Cirlir fodlai forgnidib? CC .uii.

Cid ar a forndailti grad tuaithe? CC urlann grad necalga; ar nach grad bir a neclair ir coir cia bet a urlann i tuath. Degforitaig, no tidig, no fiadnaire, no bretemnacta, o cach do alailiu.

Cerc.—Cadeat grad tuathi?

Fer midba, boaire, aire derga, aire aird, aire tuire, aire forgill, ocus ri. Mad a dligeb fenechair, ir menbud funn forndaltar na .uii. ngraidi.

Cia, menba boaire cona oct fodlaib? Aire derga, aire echta, aire aird, aire tuire, aire forgaill, tanaire ri, ocus ri.

Cadeat fodlai bo-airech?

Da fer midboda, ocus occaire, ocus aithech ar atreab aithech, ocus boaire febra, ocus mbruigfer, ocus fer fodlai, ocus aire coirbthe.

Caide imdach, ocus naidm, ocus raith, ocus fiadnaire, ocus log nenech, ocus biada, ocus oenus, ocus gnada, ocus taurcheis, ocus bes tigi cach dae?

Nin.—Amail ar in cain fenechus;
Ara ferin grada fene
Fri mes airechta aslimter.

CRITH GABHLACH.

Why is 'Crith gabhlach' so called?

Answer.—Because of the fact that the layman purchases by his good qualifications among the people (*in the territory*) that he be accounted in his proper grade *among the grades* that are in a territory. Or, *according to others*, because of the number of branches into which the grades of society are divided.

Question.—How many divisions are there of these? Seven.

What is the division of social grades[a] derived from? From the similitude of ecclesiastical orders; for it is proper that for every order which is in the church there should be a corresponding one[b] among the people. Good *corroborative* proof, or denial, or evidence, or judgment, *is due* from each of them to another.

[a] Ir. *Grades of a territory or people.*

[b] Ir. *Similitude.*

Question.—What are the grades of a people?

Answer.—A 'fer mbidboth'[1]-man, a 'bo-aire'-chief,[2] an 'aire desa'-chief, an 'aire ard'-chief, an 'aire tuise'-chief, an 'aire forgaill'-chief, and a king. If it be according to the right of the 'feinechus'-law, it is in such manner these seven grades are divided.

What *is the division*, if it be not the 'bo-aire' with his eight divisions? An 'aire desa'; an 'aire echta'; an 'aire ard'; an 'aire tuise'; an 'aire forgaill'; a 'tanaise' of a king, and a king.

What are the divisions of the 'bo-aires?'

Two 'fer mbidba'-men an 'og-aire,' and an 'aitheeh'-person on the residence of an 'aitheeh'-person, and a 'bo-aire febhsa'-man and a 'mbruigh-fher'-man, and a 'fer-fothla'-man, and an 'aire coisring'-man.

What are the oath, and the binding contract,[c] and the guarantee, and the evidence, and the price of honor, and the refections, and the sick maintenance, and the protection, and the proportionate stock, and the food rent of the house of each?

[c] Ir. *Knot.*

Answer.—As the 'cain-fenechus'-law says,

"That you may know the grades of the Feine,
By the estimate of the assembly they are counted."

[1] *A 'fer mbidboth'-person.*—That is a man of mean condition.

[2] '*Bo-aire.*' 'Aire' is a common name for a gentleman of any rank in society. 'Bo-aire' is the lowest rank, derived from the possession of cows.

Crith Gabhlach.

Da fer midboda .i. fer midbod imtuing fmachta, imtoing o thnathait co dairet. Iffed log enech dia air, dia digain, dia eraim, dia faruig. Iffed faidir a naidm ocus a raith ocus a fiadnaife, ocus a aitire. Ach biatha aonar, arr ocus grus no arbur. Ni dlig imb. Snadud a comgrad tar a tuaith fadefin, ocus biadtair leis co ndeochaid tar crich.

Cid ara neper fer midbod don fir fo? Achani do nicet ammaici andligid altruma, ocus nad roig fertaig.

In forcmaithem aer fainredech don fir midbod imatuing fmachta? Forcmaithem aer ceitheora mbliadan ndeg.

Ir aire ni comruc immgi na fiadnaife ar ni himfiadnaife acht fri cach ruaill, re fecht mbliadna .x. na ro gaib feilb na comarbar ria fin, manar comathech fer fene lair. Iffe immin imatoing fmachta mbruigfrecta.

In fer midbod eile conoi immgi ir threbeniu fide; tecmaltar a immrci do in teora briathraib co de thri; co taoi gin torimach gin digbail, imurtoing andiaig nach aile, ar iorcit illuga. Ocus imtoin colpdaig no a log; iffed log enech dia air, dia digain, dia eraim, dia faruig.

Iffed faidir a naidm, a raith, a fiadnaife, a aitire. Ach biatha aonar, arr ocus grus, no arbur. Ni dlig imb. Snadud a comgrad tar a tuaitha, co tabair diablad in bid do.

In todfa ni fil andiu ifin aimfir fo, acht log a degdoltha do cach iar na mbiad, itir fodraic lego, ocus lin, ocus biatha, ocus log naimhe, amairicc earboda; acht bid coitcinn dligid cach ngrad do gradaib tuaithe i corus otrufa.

[1] *In lieu of fosterage.*—If the correct reading were 'nicet,' as Professor O'Curry suspected, not 'nicet,' he would translate the sentence, "because his sons (*by his position*) are exempt from the right of fosterage."

[2] *No land.*—O'Curry suggests another translation of this clause, viz., "Or that he is not entitled to a tomb."

[3] *Preserved.*—That is, probably, considered legal evidence.

There are two 'midboth'-men, i.e. the 'midboth'-man who swears to 'smacht'-fines, and swears from a needle to a 'dairt'-heifer. It is his price of honor for satirizing him, for trespassing on him, for 'esain' to him, for violating his protection. It is to that extent he may become a bond, a surety, a witness, and a pledge. *He is entitled* to feeding for himself alone, milk, and stirabout, or corn. He is not entitled *to* butter. He protects *one of* his own grade over his own territory, who[a] is fed along with himself till he passes beyond the boundary.

[a] Ir. *And he.*

Why is this man called a 'midboth'-man? Because of the fact that he pays his sons in lieu of fosterage[1] (*gives them away*), and that he has no land.[2]

Is there any particular age determined for the 'midboth'-man, at which he swears to 'smacht'-fines? There is determined the age of fourteen years.

The reason why the language of his evidence is not preserved[3] is because he is not eligible as a witness except for all trifling things, before he is seventeen years old, unless he has taken possession, or succession before that, or a man of the 'Fene' *grade* be a co-occupant with him. It is then he swears to 'smacht'-fines in farm laws.

The other 'midboth'-man whose evidence[b] is preserved, is of more weight; his evidence[b] is confronted with him in three words for three days; and if it survives (*stands good*) without increase or diminution, he swears after (*in support of*) another person, because his oath takes precedence. And he swears *up to* a 'colpach'-heifer or its value; that is his honor price for satirizing him, for trespassing on him, for his hindrance for violating his protection.

[b] Ir. *'Language.*

It is to that extent[c] he may become a bond, a surety, a witness, a pledge. *He is entitled to* feeding for himself only, milk and stirabout, or corn. He is not entitled to butter. He protects *one of* his own grade over his territory, until he gives double food to him.

[c] Ir. *It is it.*

The sick maintenance is not in existence at this day, in this time, but every one receives the value of his good qualifications, according to his dignity, both as to doctor's fees, and company, and food, and the compensation for a maim, if it extends to mutilation;[4] but it is the same right that all the grades of the territory have under the law of sick-maintenance.

[4] *If it extend to mutilation.*—O'Curry was in doubt whether the translation of this clause should not be "according as it may happen to be."

Cṙith Gabhlach.

Tongar fri corp ocus anmain, ocus do teit aitire ar fer ferus in fuil, 1 corus oṫrusa, 1 mboin. Conaig tar fot cruach; in aronimed didite dieim ar dian tola fluaig; ina urgell tareire cin lerad ar cuile liaig, itargo lego, co derorc in arrlaine, ina iarrlaine. Ir flan lina lerda a fnaḋad co forus tuaiṫe.

Cadeat a folai corai o cach frir a curṫar aitire fri buiṫ reir lego?

Ogfriteċt for fada, mana eta nech a freperad o fir cinaiḋ; combi ar egin do bongar. Ir co nogoire ocus eneclann fo miad atgairter, cid trie edngeb fo toċar. Teit ocus a matair for foluċ. Uachtar ar leamlaċt do hi trifi, a coicti, 1 nomad, a ndechmad, a ndomnaċ.

In forcmaidter o ċetheoraiḃ bliaḋnaiḃ deg co friċtig co cuairt ulcaiḋ.

Cia beiṫ ara nogbad boairechar friarfu fo ba cuairdid, ni ica a lugad achd alluga fir midboda.

Cia beiṫ gin gaḃail norbai dana, co crine, ni teit a luiġe o fir midboda beor.

Diṫ a ṫurcreicc coic fetaiḃ. Molt cona forair ber a ṫiġe.

Irre ber oen cinneda infin, fer na threaḃaiḋ feilḃ na ferann do fadeifin.

Forair in muilt; di bairgin deg, imb, nembeoil, imglaice cainne co cennaiḃ, ian oil aigg, tri barraiḃ, ochtar ocus lemlaċt ocus draumce no blaṫach.

Ni dligter foċur a ṫiġe do neoch cein mbir maici, co mbi tualaing faintreḃṫa, ocus gabala fealb. Do fir midboda cein

[1] *The bed-carrying party.* Over the a of the word 'lina' there is written in the MS. the usual symbol for 'no,' 'or,' intimating that the word might be 'lino.'

He (*who sheds the blood*) is sworn to *both* body and soul, and a pledge is given by the man who sheds the blood, in the law of sick-maintenance, to *the amount of* a cow. He is conveyed over the bloody sod; the noble chiefs protect him quickly from the rapid rush of a crowd; and a new pledge *is given* afterwards not to put him into a bed[a] forbidden by a doctor, *and* to provide a doctor, until his present health is decided, and his after health. *As to* his bed[1]-*carrying* party it is safe for them[2] to protect him to the territory house (*hospital*).

[a] Ir. *Without a bed.*

What are the proper duties of every person for whom a pledge has been given that it shall be according to the *directions of the* doctor?

The whole of the attendance *falls* upon the securities, if a person (*the invalid*), does receive not his cure from the criminal; and it may be obtained by force. It is to *the amount of* his full 'dire'-fine and honor-price, according to grade, he sues, though it be through a tongueless person[3] he demands it. He goes, and his mother, upon *sick* maintenance. Cream upon new milk *is to be provided* for him on third, on fifth, on ninth, on tenth days, and on Sundays.

Is there *anything* determined for him, from fourteen years to twenty, till the encircling of beard?

Though he happened to take the rank of 'boaire'-ship before the encircling *of a beard*, his oath does not take more effect than his oath as a 'midboth'-man.

Though he remained till his old age, if he get not land, his oath does not pass from that of a 'midboth'-man still.

His proportionate stock is five 'seds.' A wether with its accompaniments is the food-rent of his house.

(This is the food-rent of a last survivor,[4] a man who does not plough (or occupy) a possession or a farm for himself.)

As to the accompaniment of the wether; *it is* twelve cakes, butter, 'nembeoil,' a handfull of leeks with their heads, a milk drinking mug of three hands *in height*, cream and new milk and 'draumche'-milk or buttermilk.

Refections at his house are not due to any person as long as he is in the condition of a son, until he is competent to have a separate residence, and to the taking of land. *So with* the 'midbaidh'-man as

[2] *It is safe for them.* That is, they have performed their duty, and are exempt from further liability.

[3] *A tongueless person.* That is, not a professional pleader.

[4] *Last survivor.*—That is, a person who has neither father nor mother living neither sister nor brother, or relative, none interested in him but the foster-father. He was somewhat in the position of a foundling.

Crith Gabhlach. ber noen cinid; acht ma frisnagar a flaith, na fuilnge a ber tar molt cona forgair.

Ma forberar foled a tigi co mbi folad mboairech no ni ber arrodu, torba corus a tuircreicca dorom arguidiu. Toforsmaig cadesin fomaine co mbi ber a tige ann iar na miad, mana congla nach flaith aile frir. Letdrecht huad i ngort dia threisi iar focra; trian a duinn, ocus a mesca, ocus a lesca, ocus a esca do flaith.

Ocaire is aridu a airecharadi.

Cid ara neser ocaire? Ar oitiu a airechair; ceth acht uaire is nue o ro gab treabad

Caide a todacht? Folod fedta lair; .uii. mbae cona tarb; uii. muca co muic forgair; uii. caire; capul itir fognum ocus imrim; tir dri .uii. cumal les. Ise tir mbo la fene inrin, foloing .uii. mbuu co cenn mbliadna .i. adaigter .uii. mba inn. Faccaib in fedtmad mboin dia bliadna a fochraic in tire. Cethraime aratharr lair; dam, foc, brot, cennore, co mbi tualing coimse. Cuit a naid, immuilin, i gabail; fcaball cocuis.

Met a tige; mou tig incis ar is .uii. traige .x. a meit fide. Fiadi co fordorus. Dit itir cach duiti o fuidiuga co cleith. Da dorus ann. Comla ar alanai, cliath ar alaile, or he gin cliatha cen tulgu. Adnocht coil imbi. Clar ndara idir cach di caomdai.

Is mo tech nocairech. Noi traigi .x. a metside. Tri troigi .x. a ircha. Ara forand aithir ber a tigi i ndi.

Oct mba a tuircreicc. Ite .x. feoit inrin. Ired diabal tausr-

[1] *Last survivor.*—See note (*), page 303.

[2] *Third part of his theft.*—That is, it would seem, the third part of the fine, &c., for anything stolen from him, for making him drunk, for wounding him so that he may be lame for life, &c.

long as he is *in the condition* of a last survivor,[1] (*i.e., until he is able to take a distinct residence and possession for himself*); but if his chief prevents him *from so doing* he should not bear more of food-rent than the wether with its accompaniment. CRITH GABHLACH.

Should the property of his house increase until it becomes *equal to* the property of a 'bo-aire' or higher, his right to proportionate stock increases to him on that account. He increases the income until it be the food-rent of his house, according to his rank, unless another chief enters into a compact with him. In three days, after notice, half a portion (*of fencing?*) is due from him for a field; a third part of *the fine for* his theft,[2] and his drunkenness, and his laming, and of 'eric'-fine *for killing him* goes to his chief.

As to an 'og-aire,' his position as an 'aire' is higher.

Why is an 'og-aire' so named? Because of the youthfulness of his 'airechus'-rank; because it is newly he has taken household-ship upon him.

What is his property? He has a property of sevens; seven cows with their bull; seven pigs with a boar pig;[a] seven sheep; a horse for work and for riding. He has land of three seven' cumhals' *value*. With the Feine this is a cow-land, which supports seven cows to the end of a year, i.e. seven cows are put upon it. He leaves one of the seven cows[b] at the end of the year in payment for the land. He has the fourth part of ploughing-apparatus; an ox, a plough-share, a goad, and a bridle (*for the ox*) so that he can be mastered. *He has* a share in a kiln, in a mill, in a barn; *he has* a cooking pot.

[a] Ir. *House pig.*

[b] Ir. *The seventh cow.*

As to the size of his house: it is larger than a house of 'inchis.'[3] for seventeen feet is the size of that *house*. It is interwoven (*wattled from the ground*) to the lintel. A dripping-board is placed between every two weavings from the base to the ridge. Two doorways *are* in it. *There is* a door to one of them, a hurdle to the other, and it is without partitions and without holes. A palisade is around it, of slight wood.[4] An oak board *is to be* between every two beds.

The 'og-aire's' house is larger: nineteen feet is its size. Thirteen feet is *the size of* its backhouse (*kitchen*); *or*, because his father has divided his food-rent in two with him.

Eight cows are his proportionate stock. This consists of ten 'seds.' This is double the proportionate stock of the grade which

[3] *A house of 'inchis.'*—That is, a house built for an aged man of the family who gives up to the family his patrimony on condition that they support and attend to him during the remainder of his life. *Vide* C. 807.

[4] *A palisade, &c.*—Professor O'Curry's first translation of this clause was, "Narrow beds in it."

Crith Gabhlach.

creccа in grаid fil friam ; ar ir di thiр giallaid in graidni ; ir di thiр, dono, log a .x. feoit dorom dia tuicrec; bid, dono, a tiр fin for fola frir do. Daritaid inidi cona timtach ber a tige. Tairr muca ler ar tine iccar la boin, no time orlaige, in na chumbu coir, ocus tri meich mbracha, ocus let meich tarai. Ar amail ndiabul tuirchreaca in graid ir irliu tuirchreic in graid ir aridu, ir diabul fomaine, dono, ber a tige. Snadig a comgrad, ar ni fnadig nach grad nech ber aridu. Biathad deiri dó, di ar ocus grur, no aribaimm. Ni dlig imb. Cuad da orlaich .x. di draumcu ar lemlacht cechtar nai, ocus bairgin indruic, no di bairgin banfuine. Ac dirr for foluch. Imb iruidiu a treiri, a coice, a nomad, a ndechmad, i ndomnach. Tri feoit log a enech, acht it feoit borlabra; dirre naitire do.

Cid dia neirenaiter dorom in freoit fo ?

Nin—Dia aoir, dia erain, dia diguin, dia trarugad, do lorca a tigi, dia turorgain, do gait ar a let, do gait ind, di forcur a mna, a ingini. Acht ar bret la fene let dirri gach grad tuaithe for a mnai, ocus a mac, ocus a ingin, acht ma dorimaine, no mac ber elodach fria ngairi.

Cethratha forfuidib log a enech; ired imatoing, ocus tet for a naidm, ocus a raith, ocus a aidire, ocus a fiadnaisi. Or in da fet terbanad aire, huaire nad nogg forfuga a tigi, ocus nad nimraith friu, amail gach boairi, ar loigeb a folad.

Aithech ar atreba; a deich deichde a buarride .i. deich mbai lair .x. muca .x. cairig, cethraime arathair .i. dam, ocus foc, ocus brod, ocus cennof .f. Tech fichet traigid ler, co nairchai cetra traige ndeg. iiii. feoit a dire dia air, dia

[1] *Woman's baking.*—The woman's baking was half the man's baking.

[2] *Of a hostage.*—That is, if he is given in pledge, he is entitled to his own damages.

is before him; because it is for land the grades take service; it is for land that he is entitled to the value of his ten 'seds,' as his proportionate stock; he has his land *given him* according to qualifications. A 'dartaidh'-heifer at shrovetide with its accompaniments is the food-rent of his house. A hog's belly in bacon he pays, along with a cow, or a *whole hog in* bacon, of an inch *of fat*, properly cured, and three sacks of malt, and half a sack of wheat. Because in the same way that double the proportionate stock of the lower grade is the proportionate stock of the higher grade, so is the food-rent of his house double profit. He protects his co-grade, for no grade protects a person higher *than itself*. He has refections for two men, in milk and stirabout, or in corn. He is not entitled to butter. A mug of twelve inches of sour milk upon new milk *is due* each time, and a lawful *man's* cake, or two cakes of woman's baking.[1] He has two *attendants when* on sick-attendance. They are to get[a] butter on third, on fifth, on ninth, on tenth days, and on Sundays. Three 'seds' are the price of his honor, but they must be 'seds' of the cow kind; he is entitled to[b] the 'dire'-fine of a hostage.[2]

[a] Ir. *Butter for them.*

[b] Ir. *For him.*

What are these 'seds' paid to him for?

Answer: For satirizing him, for his 'esain,' for insulting him, for violating his protection, for burning his house, for stealing from him, for stealing out of his house, for stealing *anything* into it, for forcing his wife, his daughter. But it is a decision with the Feine that half the 'dire'-fine *due to a man* of every grade in a territory is *due* for his wife, and his son, and his daughter, excepting *the case of* a 'dormuine'-woman, or a son who evades the supporting *of his parents.*

There are four things in which he acts to *the extent of* his honor-price; it is that which he swears to, and it goes on his security, his guarantee, his pledge, and his evidence. And the two 'seds' that are wanting to it (*his price of honor*), *are wanting* because the stability of his house is not perfect, and that he is not competent to undertake liabilities for them, like every other 'bo-aire,' for the smallness of his property.

As to a tenant resident; ten of tens are his cattle, i.e. he has ten cows, ten pigs, ten sheep; a fourth part of ploughing apparatus, i.e. an ox, and a ploughshare, and a goad, and a bridle. He has a house of twenty feet, with a kitchen of fourteen feet. Four 'seds are his 'dire'-fine, for satirizing him; for his 'esain;' for in-

Crith Gabhlach. — eṙain, dia díguin, dia garuṡ. Imorroinṡ, ar naidm, ir ṙath, ir aitire, ir fechem, ir fiadnaisi friu. Deich mba a tuarcreicc. Forṡṡu dine ocus tine da mer ina cumbu coir ocus cetre (no ceithir) meich brathcha, ocus fidlan airmeide di tarru, ire ber a tige. Tincur coir, itir erna ocus lestrai.

Ire aithech baitsidhe inro, dia mbe in a ennchai, cin ṡart, cin brath, cin ṡuin duine acht la a catha, no nech dorairi a cenn fair; or he cona lanamnar coir, ocus denmai in aimib, ocus domnachaib, ocus corṡaraib.

Cid nad mbrir in ferro a boairechur? Ar ber bid cethar no coigur beit hi comorbus boairech, conach ara boaire do cach ae. Biathad deisi do di arr ocus ṡrurr no arbaimm; imb in ndomnachaib, fescol tarrain lasodain, duilesc, cainnenn, faland.

Dír do for folach. Imim do ala triat.

Boaaire febra cid ara neiper?

Ar ir do buaib ata a airechass ocus a eneclann. Tir da .uii. cumal leis. Tech .uii. traiged xx. it, co naisrichai coic traigid ndéac; cuit immuiliunn co nairmil a muintir, ocus a a dáma. Aith, faball, liar caisrech, liar laeṡ, mucfóil. It he isin .uii. cleithiu ó ndisrenar cach boairi. Biid di bai .x. leis; leth narathair, capul fosnuma ocus ech immrimme. Di bai .x. a tausracreicc. Colpdaig frisend cona timthuṡ bés a tigi, in traimbiad ocus ṡaimbiad. Coic feoit ina díriu doneoch isse ṡress do dia eneclann.

Cid do bir na coic féotu do eneclann in boairiṡ?

Nin—A ṡnima; fet a nadma, fet a fraithi, fet a fiadnaisi, fet a aitiri, fet a foraiṡthi, ocus a brithemnair for mbruiṡred.[2] Imtoinṡ coic feotu; tiaṡait for a naidm, ocus a fraith, ocus a

[1] *Four.*—'No ceithir' is an interlined *aliter* reading.

[2] *A 'bo-aire.'*—The portion of this tract taken from C. 488 ends here; the remainder is from the portion of the tract in C. 1–16 (H. 3, 18, 1–6).

sulting him; for violating his protection. He swears, he is a security, he is a guarantor, he is a pledge, he is a suitor and witness for them (*to the extent of four 'seds.'*) Ten cows are his proportionate stock. The choicest of a herd *of cows* and a bacon *pig* of two fingers *depth* properly cured, and four[1] sacks of malt; and a wooden vessel of salt, is the food-rent of his house. *He has* proper furniture including iron and wooden vessels. CRITH GABHLACH.

This man is an immovable tenant, if he is blameless, has not robbed,[a] has not stolen, has not wounded a man, except on the day of battle, or a person who sues for his head from him; and he is in his lawful *matrimonial* union, and is pure as regards Fridays, and Sundays, and Lents.

[a] Ir. *Without robbing.*

What is it that puts[b] this man from being in the rank of a 'bo-aire'? Because it may be that four or five such may occupy the land of a 'bo-aire,' and it could not be easy for each of them to be a 'bo-aire.'[2] He has refections for two, of milk and stir-about, or corn; butter on Sundays, salted venison along with these, sea-grass, onions, salt.

[b] Ir. *Breaks or bears.*

He has two persons on sick attendance. He gets butter[c] on alternate days.

[c] Ir. *Butter for him.*

'Bo-aire febhsa' why is he so called?

Because it is from cows his rank as an 'aire' and his honor-price are *derived*. He has land of *the value of* twice seven 'cumhals.' *He has* a house of twenty-seven feet, with a back-house, (*kitchen*) of fifteen feet; a share in a mill in which his family may grind, and his visitors. *He has* a kiln, a barn, a sheep-house, a calf-house, a pig-sty. These are the seven houses from which each 'bo-aire' is rated. He has twelve cows; half *the means* of ploughing, a working horse and a riding steed. Twelve cows are his proportionate stock. A male 'colpach'-heifer with its accompaniments is the food-rent of his house in summer food and in winter food. Five 'seds' *are due* to him as his 'dire'-fine which are permanent to him as his honor-price.

What is it that causes the honor-price of the 'bo-aire' to be five 'seds'?

Answer: His deeds; a 'sed' for his binding,[d] a 'sed' for his guarantee, a 'sed' for his evidence, a 'sed' for his pledge, a 'sed' for stability, and for his judgment upon land law. He swears to five 'seds,' they come on his binding,[d] his guarantee,

[d] Ir. *Knot.*

Crith Gabhlach. aitiri, ocus a fiadnaisi. A biathad tríur; triur do for foaċ; imbm do i ndirri, i tríri, i cóicid, ind nomaid, i ndechmaid, i ndomnach. Fír cámnenn, no faillti do tabrun. Ní terban di foltaib in boairiġ terban di a díriu.

Mbruiġfer cid ara neiper? Dí lín a mruiġe. Tir tri .uii. cumal labraide. Ire boaire reire breiṫe. Boaire ġenra; co cách in chruth a thiġe, in na átthaib corraib. Caire cona inbiurb cona lorġgaib; dabaċ in ro immdeltar bruṫ; caire fognuma foleṙtiai, itir erna ocus loirte ocus choidiu, conái heíredar; ammbur indlaid, ocus long foilċe; drochta, cainddelbra, fcena buana aíne, lomna, tal, tarathar, tuirerc, díar, frochrann eirit, aicced fognama cacha raiṫe. Cach ndeilm de cen iarachṫ; lia, forcaid, fidba, bíail, gaí gona cethrai, teine bithbeó. Caindel for caindelbrai cen meth. Og narathair cona huile comorair.

Ite inro tra gnima boairiġ reire brithe. Bíit dí iain in na dig do gnéṙ, ian airr ocus ian chorma. Fer tri fruba; fruib tuirc fochlaid fcoltar ainechruicce cach aimrir; frub tine for cruiṫ; fruba arathair fo rinn; ar imtuolang gabala riġ, no erruic, no ruad, no brithomun do rout; fri tarcra cecha dama. Fer tri miach inna tig do gner cech raiṫi, miach mbracha, miach muir luacha fri aithcumba naige dia ceithri, miach guaili fri erinna. Secht tige lair, aith, rabaid, muilenn, á cuit iruidiu conid nairmil; tech .uii. traiged fichit; ircha .uii. traiged ndec, mucroil, liar loeġ, liarr cairech. Fichi bo, da tarbb, re doim, fichi muc, fichi coirech, ceithri tuirc forair, di birit, each fliarta, frian cruain. Sé méich déc i talmain. Tadai cairi humai i tallai torcc. Techtuiġ raithi

[1] *Salted meat.*—O'Curry, in his second and revised translation of this tract, renders 'raillti' 'a salted crooked bone,' it is not known on what authority. 'A crooked bone' (camḋnáṁ) was the portion of the 'Aire-tuisi,' and of other persons of rank, at the banqueting house of Tara. *Vide* Petrie's 'Antiquities of Tara Hill,' p. 205, *et seq.*

[2] *With its spits and its spindles.*—Professor O'Curry in his second translation suggests "flesh-forks and lifting poles" as a better rendering for this obscure clause.

his pledge, and his evidence. His feeding *is a feeding* for three; three *attendants are due* for him on sick-maintenance. Butter *is required* for him on second day, third, fifth, ninth, tenth, and on Sunday. *He is entitled* to true onions, or salted meat[1] as condiment. Anything that is deficient of the qualifications of the 'bo-aire' shall be wanting to his 'dire'-fine.

'Mbruighfher,' why *is he* so called? From the extent of his grass-lands. He has land of *the value of* three times seven 'cumhals.' He is the 'bo-aire' for obedience to judgment. *He is* a 'bo-aire-gensa;' he has every necessary furniture of his house *all* in their proper places. He has a caldron with its spits and its spindles;[2] a vat into which a boiling *of ale* is poured; a serving pot with minor vessels, both irons, and troughs, and mugs, with which to eat out of it; a washing trough, and a bathing basin, tubs, candelabra, knives for reaping rushes, a rope, an adze, an auger, a saw, a shears, a wood-axe which cuts implements for every quarter's work. Every item of these *he shall have* without borrowing; a *grinding*-stone, a mallet, an axe, a hatchet, a spear for killing cattle, ever-living fire; a candle upon a 'candelabra' without fail; a perfect plough with all its requirements (*joint work*).

These then are the deeds of the 'bo-airech' for obedience to judgment. There are two casks in his house constantly, a cask of milk and a cask of ale. *He is* a man who has[a] three snouts; the snout of a rooting hog at all times to break the blushes of his face;[3] the snout of a salted hog upon the hooks; and the snout of a plough pointed; for he is able to receive a king, or a bishop, or a poet, or a judge from off the road; *and* for the visit of all companies. *He is* a man who has[a] three sacks in his house each quarter perpetually, *i.e.* a sack of malt, a sack of salt for curing the joints of his *slaughtered* cattle, a sack of charcoal for the irons. He has seven houses, a kiln, a barn, a mill, a share in it so that he can grind; a house of twenty-seven feet, a back-house of seventeen feet, a pig-stye, a calf-house, a sheep-house. *He has* twenty cows, two bulls, six bullocks, twenty hogs, twenty sheep, four housefed hogs, two sows, a riding[b] steed, a bridle of 'cruan.' *He has* sixteen sacks *of seed* in the ground. He has a brass pot in which a hog fits. He has a lawn in which sheep stay at all times without

[a] Ir. *Of.*

[b] Ir. *A thigh.*

[3] *To break the blushes of his face.*—That is, he should have always a hog fit to be killed to prevent his having cause to blush at his house being without flesh when strangers come into it.

Crith Gabhlach.

i mbit biat cairig cen immirgi. Cethairda noillatha leir ocus a ben. A ben ingen a chomgraid in na choir cetmuinterraigg. Or he maith alluga, a naidm, a raith, a riadnaire, a aitire, a ón, a airlicud; gen gaid, cen braid, cen guin duine. Dí chumal a thurcréicc. Dó cona timthuch bér a thige, itir gaimmbiad ocus raimbiad. Triar a dam i tuaith. Triur do for folach. Imb do co tarrund do gnéd. Snádid a chomgrad. Sall dó i trirt, i coícti, i nomaid, i ndechmaid, i ndomnach. Imtoing re reotu. Ir naidm, ir raith, ir riadnaire, ir aitiri, ir feichem friu. Irí a ogeneclann, act it .u. reotu i ndul tar a leir dichmairicc. Dilem a orolggud dimaich. Coic reoit in orrolggud a thige dichmairic, bo i ndecrin ind. Dairtaid i ndlái de, dairt ina dó, colpdach i nairbir, ramairc illeithberit, bo i mberit, ocus aitgin tuige. Coic reoit i ndul tri a tech tri a liar, di briscud a comlai, dairtaid i fleirc tíg, dairt i fleirc duar, ramairc i cleith tir, colpdach i cleith tuar, dairt i nauirrain airthir tige, dairtaid i nauirrain iarthair tige. Leth log enech cach graid tuaithi i ngait nádbiaí ar a airliri; .uii.mad i ngait inde. Aurchur fneid cach leth ir é corus a airliri. Let dire foruir for indra: Dilem ocus indlem do bruud for lar tige. Dilem cach rochoém, indlem cach ndichaém. Dilem or ocus argat ocus humai. Indlem cach nombur cach frith arcorus for lár. Dairt i crand nairide tíar, dairtaid i crann nairidi do thein ocus dair, la haithgin cach nae, cid coém cid dícoém; dairt cacha raire co fraig.

[1] *The cast of a 'sned.'*—This was probably some sort of spear, such as the 'cnairrech' mentioned, p. 226, *supra*, the cast of which measured the extent of the precinct of each grade.

[2] *Injury to its wall.*—This is O'Curry's rendering of the phrase 'cacha raire

being driven off. *He has* four suits of clothes with him and his wife. His wife *is* the daughter of a man of his own grade, being his lawful first wife. And his oath is good, his binding,[a] his guarantee, his evidence, his pledge, his loan, his letting (*out for hire*); he is not guilty of[b] theft, of robbery, or of wounding any person. Two 'cumhals' are his proportionate stock. A cow with its accompaniments is the food-rent of his house, both for winter food and summer food. Three are his company in the territory. Three *are required* for him in sick-maintenance. Butter, as a condiment, he is always entitled to. He protects his co-grades. *He has* salt flesh on third day, on fifth, on ninth, on tenth, *and* on Sunday. He makes oath *to the amount of* six 'seds.' He is a binder, he is a guarantee, he is a witness, he is a pledge, he is *qualified to be* a suitor to that amount.[c] That is his full honor-price, but he has five 'seds' *fine* for going over his 'lis'-fort unlawfully. It is lawful to open it for his good. Five 'seds' *are the penalty* for unlawfully opening his house; a cow for looking into it. A 'dartaid'-heifer *is due* for a lock *of thatch taken* from it; a 'dairt'-heifer for *taking* two, a 'colpach'-heifer for an armful, a 'samaisc'-heifer for half a truss, a cow for a truss, and restitution of the straw. Five 'seds' *are the penalty* for going through his house or his 'lias'-house (*cow or sheep-house*) by breaking its door, a 'dartaid'-heifer for a lower lath,[d] a 'dairt'-heifer for an upper lath, a 'samhaisc'-heifer for a lower wattle, a 'colpach' heifer for an upper wattle, a 'dairt'-heifer for the front door-post of his house, a 'dartaid'-heifer for the back door-post of his house. Half the honor-price of every (or any) grade of a territory *is due* for stealing what may be in it out of his 'airlis'-enclosure (*yard*); a seventh for stealing in it. The cast of a 'sned'[1] in all directions *from his house* is the proper extent of his 'airlis'-enclosure. Half 'dire'-fine in addition *is due* for a ridge. To break on the floor of his house is lawful and unlawful. All small *breaking* is lawful, all large *breaking* is unlawful. Gold, and silver, and bronze are lawful; all troughs and ranges which are more properly on the floor are unlawful. A 'dairt'-heifer *is the penalty* for *injuring* the front lintel, a 'dartaid'-heifer for the tearing or notching the rere lintel, together with restitution of everything, be it small or not small; a 'dairt'-heifer for every injury to its wall.[2]

CRITH GABHLACH.

[a] Ir. *Knot.*

[b] Ir. *Without.*

[c] Ir. *For them.*

[d] Ir. *A wattle below.*

co ꝓꝛaiġ,' in his revised translation. In his first translation he was in doubt as to whether the meaning of 'ꝓaiꝛe' was 'carpentry' or 'a litter of rushes.' The whole paragraph is extremely difficult, and there seems to be a defect in the MS.

Cṙith Gabhlach. Dílem nindlem naṙrad do bṙuud. Dílem ní bem íṙliu ordd, indlemm ní bem arddu ordd. Fomanu chuile a chumac díṙech naṙrad. Noem nua dia emain.

Díṙech nímda; diam dlaí do chind adaiṙc, diṙenam dagchencaill. Diam dlaí doneoch bis fo fuidiu, diṙenam dagdamun. Diam dloí di ċoṙṙaib, diṙenam dagaṙṙaib. Diam dlui do fṙaig, aín nua dia emain. Diam dochum tam cend, fét inn, ocus aithgin.

Dílem ocus mdelm i nimmid. Dílem fuide ocus fṙeiṙṙligi inni, ocus cia bṙondad inni, co comaidda cinn iṙṙuidiu; indlem inní bem arddu cinn. Dí loaiṙgg diṙenaitem feot; mad naidiu chua, let iaṙmoída.

Mleth dicmaiṙcc immuiliunn mṙugṙiṙ, coic feot, ocus dilre mine melam ditmaiṙcc, ocus log aenech, dia toichne a damam. Dia ma bṙondad, ainecland caich ara aí, ocus aithgin la taiṙgell mlethei.

Mada aith fo bṙonntad dichmaiṙcc, bo co ndaiṙtt a daíre ocus aiṫgin. Dílem ní fo bṙonntaiṙ inni, acht adṙaimm tuaiṙggad foṙ lam, ocus a ṙṙetha fét fadeṙṙnei.

Díṙe a·fabaill, coic feot ocus aithgin conneoċ fo bṙonntaiṙ ann. Díṙe a mucfolach, coic feoit mucaib ocus aithgin.

Díṙe a béla, colpdaiċ, a let dia fidba, fía fé imbi; if colpdaċ i fuidiu.

Fem fothlai cid ara neiṙem?

Ifé femíbi boaiṙechaib imin, aṙ in ni fótlen a boaiṙecud do tauṙcṙeicc ceili. Fomcṙaid a cethṙai, a bo, a mucc, a caíṙeg nad fo chomlaing a thíṙ fadeiṙin, ocus nad éta meicc aṙ thíṙ, ni fic a lemm fadeiṙin, tabeiṙ thauṙcṙeicc ceilé.

Caidi fomaine fét inn fin fin?

[1] *For breaking into his kitchen.*—In his revised translation, Professor O'Curry translates (with a note of interrogation) 'the whole front,' as if he suspected that the reading should be, 'fomanuch uile,' not 'fomanu chuile'? 'Díṙech nímda' of the next paragraph he appears to have thought might mean 'many strippings.'

It is lawful *and* unlawful to break lintels. What is lower in position is lawful, what is higher in position is unlawful. For breaking into his kitchen[1] the 'dire'-fine is the same as for the lintel. It (*the kitchen*) must be littered with new straw.

As to the 'dire'-fine for a bed; should it be *stripped of* a lock of the pillow, there is paid a good pillow. If the part for sitting on *is stripped of* a lock, a good skin is *to be* paid; if it be a lock from the feet, good shoes (*covering*) are paid. If it be a lock from the roof (or back) *that is taken*, new straw is *to be given* to cover it. If it (*the offence*) be an upsetting, a 'sed' *is due* for it, and compensation.

Of what is lawful and unlawful as regards a bed. It is lawful to sit and recline in it, and though anything be broken in it up to the level of the head, by sitting; anything above *the level of* the head is unlawful. Two 'loargs'; a 'sed' is paid, if totally destroyed, half after that.[2]

For grinding without leave in a 'Brugh'-man's mill, *the penalty is* five 'seds,' and the forfeiture of the meal that is ground without leave, and his honor-price, should *it cause* his visitors *to* fast. Should it (*the mill*) be damaged, *the fine is* the honor-price of the party whose it is, and compensation with a pledge for the grinding.

If it be a kiln that is used[a] without leave, a cow with a 'dairt'-heifer is its 'dire'-fine, with compensation. The using of it is lawful, *without further compensation*, except so far as what is cast on the floor, and *as to injury* to its own sets of implements.

[a] Ir. *Damaged.*

As to the 'dire'-fine for his barn, *it is* five 'seds,' and compensation for every thing which is used[a] in it. The 'dire'-fine for his pig-stye *is* five 'seds' for the pigs, and compensation.

The 'dire'-fine for *using* his hachet *is* a 'colpach'-heifer, half that for his wood axe, before fencing time; it is a 'colpach'-heifer for that.

A 'fer fothla'-chief, why is he *so* called?

He is the leader of the 'boaire'-class, because his 'boaire'-ship extends to *giving* proportionate stock to tenants. The excess of his cattle, *i.e.* his cows, his hogs, his sheep, which his own lands cannot sustain, and which he cannot sell for land, *and* which he does not himself require, he gives as the proportionate stock of tenants.

What are the profits of that man's 'seds'?

[2] *After that.*—The original of this paragraph is very obscure, and the translation, to a great extent, conjectural.

Crith Gabhlach.

Somaine grain dib; log gerta cacha bó do grán arba bíd; ar ni dlig aithech mbraith corpplaith.

Cerc—Cuin ir flaith an taithech din boairechur? I nduil ir frith faithce. In tan mbir diabol nairechderai lair, irr ann ir airi dírra dia neper boaire remibí boairechaibh; berid dib derscugud dia taurcria ceíleu nach airederra; conid roib derride .i. diabol nairíchdeura. Ocht reot illog a enech. Ni ar mrugfer riam in tan din diablar feib mboairech, ir and ir airi dera; ar ni cumscaigi ainm ngraid dorum cia do rormai a mecland co rin anall. Imdoing ocht reotu. Ir naidm, ir raith, ir aitiri, ir fechem, ir fiadnaire friu. Cetheora cumalai a thuracreic. Do cona timthach cechla bliadnan bér a tigi; colpach firenn lee in mbliadain naili. Uii. traigid ficit a thech; a .uii. ndec a aircha. Cethar lín a dama; im co tarrun dó do gnéd. Cethar dó for folach. Furrundud cethrair. Sall do hi threir, i .u.ti, in nomad, i ndechmaidh, i ndomnach. Ir din grad fo aircain Fenechus; Dligidd firflaithe forcraid for néir rimde. Ro raigh anflaith led aithgin moíne mogerr; mana deich reoit roerait, regait.ú. reoit cundarta combí og ninnraic naithgina, ar it baill led ó faill necrmacht.

Aire coirrinn cid ara neper? Ar inní conrrenga tuath ocus ri ocus renod tar cenn a chenuil na dlig a flan dóib for curu bél. Acht atndaimet do thuirech ocus aurlabrai remib. Ir hé aire fine innrin; tobeir gell tar ceann a fine do rig, ocus renod, ocus aer cerdd, dia timorggain do rein.

Cia méit in gill do bér? Gell coic reoit dineoch rod mbí, di arggat, no umá, no ibur.

[1] *Until he is a 'flaith'-chief.*—That is (according to Professor O'Curry) not being an original land owner or 'flaith,' but only a kind of tenant himself, he is not entitled to receive malt in return for his cattle let out, as the 'flaith' is for his lands, but only to corn.

[2] *A true green.*—That is (remarks Professor O'Curry), when his green or inviolate

A profit of grain *is got* by them; the value of the milk of each cow in corn grain, he gets *by them;* for an 'aithech-tenant' is not entitled to malt, until he is a 'flaith'-chief.[1] CRITH GABHLACH.

Question.—When does the 'aithech'-tenant become a chief leaving[a] the 'bo-airech'-ship? Upon going into a true green[2] when he has double as much as the 'aire desa,' it is then he is an 'aire-desa,' who is called a 'bo-aire' that takes precedence of 'bo-aire'-chiefs: he them excels by giving proportionate stock to the tenants of any 'aire desa'-chief, and this makes the difference, i.e. double what the 'aire desa' has. Eight 'seds' are his honor-price. It is not among 'brughaidh'-men he is counted, when he doubles the property of a 'bo-aire,' it is then he is an 'aire-desa'; for the name of his grade does not change though his honor-price increases up to that. He swears *to* eight 'seds.' He is a binder, a guarantee, a pledge, a party to a suit, and a witness to that extent. Four 'cumhals' are his proportionate stock. A cow with its accompaniments is the food-rent of his house every second year; a male 'colpach'-heifer with her the other year. Twenty-seven feet *are the dimensions of* his house, seventeen feet *of* his backhouse (*kitchen*). Four is the number of his company; butter with condiment *is due* to him at all times. Four *are due* for *attendance on* him in sick maintenance. Food for four is required. Salt meat for him *is due* on third day, on fifth, on ninth, on tenth, on Sundays. It is of this grade the 'Fenechus'-law says: "The true chiefs are entitled to the full in accordance with numbering. The 'anflaith'-chief receives but half compensation for property which accumulates; *where* ten 'seds' free, it is five 'seds' of contract he receives, which amount to a perfect faithful restitution;[3] for one half dies in fault of the forcible rule[4] (*or lordship?*)"

[a] Ir. *Out of.*

Why is the 'aire-coisring'-chief so called? Because that he binds people, king, and synod in behalf of his tribe (*kindred*), in their rights of safety by verbal engagements. But they concede to him leadership, and *a right* to speak before (or for) them. He is the family-chief then; he gives a pledge for his family to king, and synod, and professional men,[5] to restrain them in obedience *to the law.*

What is amount of the pledge he gives? A pledge of five 'seds' of whatever kind it may be, of silver, or of bronze, or of yew.

lawn should consist of four fields at the four points around his house, whereas, in his rank of 'boaire,' his 'air-lis' (yard) extended but the cast of a wand all round.

[3] *A perfect faithful restitution.*—The clause may mean "so that he be perfectly worthy of whole compensation."

[4] *The forcible rule.*—"ꝑaıll necꝺmachꝛ" may also mean "unlawful neglect."

[5] *Professional men.*—That is, literary professors, people of any trade or art, other than farmers of land.

Crith Gabhlach.

Cate flán a gill.

Do cacha aidchi fo fia tar cenn tara tinnagar cenn; co dechmaid fuillem in gill ocus in nerice a gnimiu, ocus lóg a enech iar na miad iarfuidiu, mad a gell coir do frata. Or mad do fratha forcraid ngill, is lóg a enech ocus a gell flan cona fuillem do airicc amail fodain.

Cerc cúin di tuitt a gell?

Dia mírr.

Caitte a flan amail fodain?

Do cecha aidchi fo fia fo follaigtir tar cenn neich cen gell cen fugell de, aṁel arindrubartmar; coic feot, dan, co decmaid co fo thri, an tucht frin, ire flan a gill info. Irré, dan, fuillem a fét dian da fera i cumtach. Noi feoit a enechclann. Is naidm, is raith, is fiadnaire, is fechem, is aitiri friu. Coic cumal a tauscreicc. Do cona thimtag ocus colfdaċ firend cona forgair i ngaimriud, co rambíud, bés a thige. Tech trichat traigid, co nirċai noi troigid ndeacc. Coicciur a damam. Imb do, fercool tarfrain. Sall do i trirri, i coiccid i nomaid, i ndecmaid, in ndomnach. Is óg log a inech cech graid dirunn mani ausciriat a folaid .i. ar ná torthairet is naib fechtaib hi tuitet enech caich.

Cateat fide?

Nin—Cc aér, i torgabail cen gell dia incáib, gu fiadnaisi, gú tert, ailfed nadma, eliud rathaigir, dul tria aitiri im ní di chuat fuisi, cacc for a enech.

Cerc—cid di nig di incáib neich inna .uíi. ra?

Nin—Nach ral arlenna ainech duine buit a tri oca diúnach .i. fleic, ocus urce, ocus anart. Ired is fleic cét [amus], fóisitiu

[1] *Neglected.*—Professor O'Curry remarks here, "If any one of his people for whose good conduct he has given a pledge, should break it, the pledge becomes

What is the security of his pledge? CRITH GABHLACH

A cow every night is given for every one for whom the pledge is given; as far as ten *nights* is the interest of the pledge and of the 'eric'-fine of his act, and his honor-price according to his dignity besides, if it is a proper pledge that is given. And if an excess of pledge has been given, it is his honor-price, and his pledge safely with its interest, that is to be restored to him in the same way.

Question.—When does his pledge become forfeit?[a]

[a] Ir. *Fall.*

After a month.

What is his security then?

A cow every night is given for what has been neglected[1] *to be given* for every one for whom there is not[b] pledge or word (judgment), as we have said; five 'seds,' now, as far as thrice ten nights, on this occasion, is the security of his pledge in this case. This, then, is the interest of his 'seds' if he has given them away in a cover (*or box*). Nine 'seds' are his honor-price. He is a binder,[c] he is a guarantee, he is a witness, he is a party to a suit, he is a pledge to that extent. Five 'cumhals' are his proportionate stock. A cow with its accompaniments, and a male 'colpach'-heifer with its proportion of other food in winter, together with summer food, is the food-rent of his house. *He has* a house of thirty feet, with a backhouse of nineteen feet. Five *are* his company. He is entitled to butter,[d] with salted venison. Salt meat *is due* for him on third day, on fifth, on ninth, on tenth, on Sunday. The honor-price of every grade of these is perfect unless their qualifications diminish, i.e. if they have not fallen into *any of* the seven things by which the honor of each is forfeited.

[b] Ir. *Without.*

[c] Ir. *Knot.*

[d] Ir. *Butter for him.*

What are they?

Answer.—To be satirized, to be arrested and have no pledge to release him,[e] false evidence, false character, intentionally defective binding, evading guaranteeship, to break through his pledge for anything for which he went security, to befoul his honor.

[e] Ir. *Without a pledge for his face.*

Question.—What is it that washes from a person's face (*honour*) these seven things?

Answer.—Every foulness that adheres to a person's honor, there are three things to wash off, *viz.*, soap, and water, and linen cloth. What soap, is firstly, is a confession of the misdeeds in

forfeited after a month, if not saved by the transgressor's depositing a new pledge, or by an offer to submit the case for legal judgment.

Crith Gabhlach. in míḋénmaí ṙia ḋoínib, ocuṙ in ġell náḋ ṙúiṙi ṙṙiu aitheṙach. In tuṙci imoṙṙo, ícc nech atḃall tṙi a miġnimiu. Cnaṙt, penaiṫ in miḋenmaí, ṙeṙ ḋebaṙ.

Itḗ ṙoḋlaí boaiṙech inṙa. Teṙét cach nġṙaḋ beṙ ṙṙuthiu alaill.

Is iaṙṙunn ḋo inṙcanaiṫṫ ġṙaḋḋa inna ṙlaiṫe.

Ṙoṙuṙ ṙlatha .i. ṙlaith o ḋéiṙ co ṙíġ.

Ciṙḃiṙ ṙuilleċta ṙoṙ ṙuiḋib? Ca ṙecht.

Cateat? Cairi ḋéṙṙa, airi eċtai, aiṙe aṙḋo, airi túṙi, airi ṙoṙġgaill, tánaiṙi ríġ, ocuṙ ríġ.

Cid notairaeṙaḋ? Ca nḋéiṙ a nḋligid, caċ ae cid becc cid moor.

Caiṙ—Caitti ḋeiṙ ṙlathai? Ḋéġ ḋligid comḋitin ḋana. Ḋichuṙ ṙin cetheoṙai ḋeiṙi ḋo ṙlaiṫib, Sen chomḋitiu thuaiṫe; a ḋán i tuaiṫ, im ḋán tuíṙiġ no tánaiṙi thuiṙiġ ṙechiṙ ḋán ḋib; a ċeili ġialnai; a ṙoéṙ cheili; a ṙeincleṫhe; imṙaebaiṙ cach ġiallnai eiṙlinniu; ġlenomon boṫaiṙ ocuṙ ṙuiḋṙíṙ ṙo a tíṙ taḃeiṙ, aṙ is moo a muine maiṫim. Ma beiṫ ṙoġnum ḋiḃ ḋo ṙlaiṫiḃ co nómaḋ naó, is boṫhaiġ, is ṙúiḋṙi; is ṙencleṫe iaṙmoṫa.

Cairi ḋeṙa cid aṙa neṙeṙ?

Ca imḋi is na ḋéiṙ diṙenaṙ. Nimṫa bo-airi, is ḋia buaiḃ diṙenaṙṙiḋi.

Caiti toṫhaiṫ aiṙeġ ḋéṙa?

Ḋeich celi leiṙ; coic céli ġiallna, ocuṙ coic ṙaeṙcéli. A coíc celi ġiallna ḋligid biaṫaḋ naiṙcenn ḋo cach ae. Bó cona timṫuċ, ocuṙ colṙḋach ṙiṙenn, ocuṙ tṙi ḋaṙṫaiḋi cach ġaimṙiḋ cona ṙaimmbiuḋ ḋo ó .u. celi ġialnai. Ḋeich lanamna a ċoṙuṙ ṙoṙ cuí o calainḋ co hiniṫt. Oṙ he mac aiṙeċ ocuṙ aue aiṙech, co thoṫhaċht a thigi, itiṙ ṙoṙṙaiṙ ocuṙ ṙuiṙiṙeḋ ocuṙ enncai.

[1] *A 'flaith'-chief.*—For "ṙoṙuṙ ṙlatha," C. 499, reads "ṙoṙuṙ ṙlaṫa."

the presence of people, and *giving* the pledge not to return to them again. The water now, is the payment of *compensation for* what suffered through his misdeeds. The linen cloth *is the* penance for the misdeeds, according to books.

These are the divisions of the 'bo-airechs.' Every higher grade takes precedence of the other.

It is after these, the grades of the 'flaith'-chiefs commence.

The 'forus' of a 'flaith'-chief,[1] viz., a 'flaith'-chief from a 'deis'-chief to a king.

How many subdivisions are there of these? Seven.

Which are they? 'Aire desa,' 'aire echtai,' 'aire ard,' 'aire tuisi,' 'aire forgaile,' a tanist of a king, and a king.

What ennobles them? Their 'deis'-right, the privileges of each whether small or great.

Question.—What is the 'deis'-right of a chief? The goodly right to protect his office *or rank*. There are four 'deis'-rights prescribed for 'flaith'-chiefs. The ancient protection of the people (*or territory,*) is his office in the territory, together with the office of leader or 'tanist'-leader *of the army*, whichever office it may be; *of* his 'giallna'-tenants, his 'saer'-tenants, his 'sen-cleithe'-tenants; the punishment of every imperfect service; the following of cottier tenants and 'fuidhir'-tenants which he brings upon his land, because his wealth is the greater and better. If there be service from them to 'flaith'-chiefs to nine times nine *years*, they are cottiers and 'fuidhir'-tenants; they are 'sen-cleithe'-tenants from that out.

Why is the 'aire desa'-chief so called?

Because of the fact that it is on account of his 'deis'-rights he is paid 'dire'-fine. Not so the 'bo-aire'-chief, it is in right of his cows he is paid 'dire'-fine.

What is the property of an 'aire desa'-chief?

He has ten tenants; five 'giallna'-tenants, and five 'saer'-tenants. *As to* his five 'giallna'-tenants, he is entitled to a fixed amount of food from each of them. A cow with its accompaniments, and a male 'colpach'-heifer, and three 'dartaid'-heifers, every winter, with his summer food, *are due* to him from *each of* (?) his five 'giallna'-tenants. Ten couples are his right company at feasting from the calends (*beginning of the year*) to Shrovetide. And he is the son of an 'aire,' and the grandson of an 'aire,' with the property of his house, both bed and supper and washing.[2] *He has*

[2] *Bed and supper and washing.*—This is O'Curry's revised translation of the terms, 'ꝓoꝓꝛaıꝛ,' 'ꝓuıꝛꝛıeꝺ,' and 'ennca.'

Crith Gabhlach. Tech .uíí. traigid .xx. it, co nairiccai coír, ocht nimmdaí cona tinchur ann; erchrai, cairi, cona lán lestrai thigi airec, im dabaig. Imdich dligiud a cheiliu cintaib coir cain, cairddi, conneoch a tallen. Lepaid daltu comalttu, friur, mnai, macc, ingin. Ata fuidiu for fodur iar corur fine ocus tuaithi ocus flatha ocus ecalsa ocus frechtgai ocus chairddi. Sé cumala a taurcreicc ó flaith. Dí bai cona thímtachtai bés a thigi i ngaim, cona raimbiud. Ech fliarta comadar, co frian argdáit. Cetar ech lair co nglar frianaib, ocus clothelgg nunggu. Cetmuintir dligtech comchenuil comdar fon oén timthach; .x. feoit a enechclann. Immurtoing, ir naidm, ir frath, ir aitiri, ir feichem, ir fiadnaise frui. Serrer a dam i tuaith. Imb dó do ghrer co tarrsatar failti. Irri flaith mucleithe infin. Serrir do for folach. Forrugad feirrir. Imb ocus fall do i noirri, i trirri, i coicid, i nomaid, i ndechmaid, i ndomnach.

Cid do ber na .x. feotú do dirid in nrir sin?

Cóic feoit a tige fadeirrin cetamur; ocus a cóic ar in coic tige. Ol did ngiallna cen ní. Arcnia no artlia a airechur di foltaib beccaib ocus moraim, ar ná dia frecht raltar.

Cire ecstai cid ara neper? Ar indi ar naire cóicir facabar fri denum néchta i cairddiu co cenn mír, di digal enechruccai tuaithi dia ndéntar dédenguin duine. Mani dernat co cenn mír, do diagat for cairddi, nallenat a lesthai chucai anall. Cia rongonat doine din chairddiu in coiciur chetnai, ar comsen airi ecta tarla cenn. Na téit tír na humaic airi ind, acht lestra, loga bo. Deirtiur dan dia nairitiuth frechtair co cenn cairddi ar

a house of twenty-seven feet with a proper backhouse ; *he has* eight beds with their furniture in it, water vessels, a cauldron with the full complement of vessels befitting[a] an 'airech's' house, with a vat. He protects the rights of his tenants in all just suits of 'cain'-law, and 'cairde'-law, as far as he is able. *He has* beds for a foster-child, a schoolfellow, man, woman, boy, girl. He is correctly ordered in the 'corus'-law of family, and of territory, of chief, and of church, and of general law, and of 'cairde'-regulations. Six 'cumhals' is his proportionate stock from his chief. Two cows with their accompaniment is the food-rent of his house in winter, with his summer food. *He has* a riding steed becoming *his rank*, with a silver bridle. Four steeds has he *besides* with green bridles, and a precious brooch worth an ounce. *He has* a lawful suitable first wife of equal family, and with the same clothes ; ten 'seds' *are* his honor-price. He makes oath, he is a binder, he is a guarantee, he is a pledge, he is a party in a suit, and a witness to that extent.[b] Six *is* his company *or suite* in the territory. He is entitled to butter at all times, with condiment of salt *meat*. He is the 'Mucleithe'-chief.[1] Six *attendants* for him *are due* in sick maintenance. *He is entitled to* support for six. Butter and salt (or fat) flesh *are to be provided* for him on second day, on third, on fifth, on ninth, on tenth, *and* on Sunday.

CRITH GABHLACH.

[a] Ir. *Of.*

[b] Ir. *For them.*

What is it that gives ten 'seds' 'dire'-fine of this man ?

There are five 'seds' for (*in right of*) his own house firstly ; and five out of the five houses. * * * Everything avails him which he purchases or which he adds to his 'airech'-ship of small property and great, provided it is not unlawfully they are acquired.

Why *is the* 'aire echta'-chief so called ? Because it is as the chief of five men he is assigned to perform a deed in *a place where* interritorial regulations *exist* to the end of a month, to avenge the insult *offered* to a territory in which a person was lately killed. If they do not perform it before[c] the end of a month, they come under the interritorial regulations, so that their beds follow them not over. Should *they* have killed a person under the interritorial regulations, *as to* the same five men, the 'aire echta'-chief pays for them. Land or ridge goes not for this, but only vessels, the value of a cow. They are now carried to be fed

[c] Ir. *Till.*

[1] '*Mucleithe'-chief.* That is (says Professor O'Curry), a man whose mother was the daughter of a 'Sen-cleithe' (old stander), and consequently of inferior degree.

[2] *They are acquired.*—This is Professor O'Curry's second and revised translation of this very obscure passage.

Crith Gabhlach.

lín a chomairge ocus a charat. A dam ocus a folach amail airig ndéra dligthir.

Aire ard cid ara nemer? Ar indi ar nardu oldár aire déra ocus arne dotfét. Fiche cerd léir; .x. cerle giallna ocus .x. raericerd. A deich cerd gialnai, di bai cona timthug do huaídib, ocus tri colpachdai firinn, ocus coic dairtaidi caich gaimriu, cona fammbiud. Aircuirethir a céliu cuir ocus chairddiu cach ngrad ar it nirliu biid dó i cerlrine. Cóic feot .x. log a enech. Immurtoing, ir naídm, ir raith, ir aitiri, ir fechem, ir fiadnaisi frib.

Cid di beir cóic feotu .x. do ainecland don firfo?

Cóic feot dó céduir, ar tothacht i tigi fadefin; fet cecha céili dia ndlig biathad nairicennai. Morfeser a daim ind a tuaith, coic fir foleith. Imb co tarfunn doib dogress. Morfesur for foluc. Forfugud morfesin. Sall ocus imb do co tarfunn i ndirri, i trirri, i cóicid, [i nomaid], i ndechmaid, i ndomnach. Uii. cumala a thaurascreic. Teoir bai cona timthach bér a taigi. .Xx. lanamain a córus for cui o calaind co imd.

Airi túiri ced ari nemer? Ar indi ir toirech a cinniul, ocus dorét airi nardu. Uii. cerli .xx. laruidi, cóic cerli .x. gialna, da roericéli .x. lair. A chéili gialna, cetheoir bai cona timthuch do húadaib, ocus .u. colpacha firinn, ocus fé dairtidi cach gaimriu, conid fámbiud. Ocht cumala a thaurscreic ó rig. Cetheoir bai cona timtach bér a taigi. Ochtar a dám ina tuaith; feisiur fóleithi. Imb co tarfunn do do grer. Ochtar for foluch, forfugud ochtair. Imb do cotairfunn, ocus coirm

[1] '*Aire ard*'-chief.—That is the "high 'aire.'"

[2] *He binds his tenants.*—That is, he makes, or confirms, their engagements and bargains.

[3] *His half company.*—On this Professor O'Curry remarks—"Every gentleman, according to his rank, was entitled to entertainment for himself and his prescribed company for one night in any house in the territory. Were he to stay longer, he could keep but half his company, and one, two, &c., in addition according to rule.

outside to the end of the 'cairde'-regulations *according* to the number of their dependents and friends. His company and his sick-maintenance *are* by law like those of the 'aire desa.'

Why is the 'aire ard'-chief[1] so called? Because of the fact that he is higher than the 'aire desa' and it is him he precedes. Twenty tenants has he; ten 'giallna'-tenants, and ten 'saer'-tenants. His ten 'giallna'-tenants are bound to give him[a] two cows with their accompaniment and three male 'colpach'-heifers and five 'dartaid'-heifers every winter, together with his summer-food. He binds his tenants as to the engagements and 'cairde'-regulations of every lower grade which he has in tenancy. Fifteen 'seds' is his honor-price. He is an oath, a binder, a guarantee, a pledge, a party to a suit, and a witness to that extent.

[a] Ir. *To him from them.*

What gives this man fifteen 'seds' as his honor-price?

Five 'seds' *are due* for him, firstly for the property of his own house; a 'sed' for every tenant from whom he is entitled to stipulated feeding. Seven is his *full* company in his territory, five men his half *company*.[3] Butter with salt is always *provided* for them. Seven *are his* attendance in sick-maintenance. The maintenance of seven *is due to him.* Salt (or fat) meat and butter with salt *are supplied* to him on second day, on third, on fifth, on ninth, on tenth, *and* on Sundays. Seven 'cumhals' is his proportionate stock. Three cows with their accompaniment is the food-rent of his house. Twenty couples *are* his right on a feasting ('*coshering*') from Calends to Shrovetide.

The 'aire tuisi'-chief why *is he* so called? Because his race has precedence and he takes precedence of the 'aire ard'-chief. He has twenty-seven tenants, fifteen 'giallna'-tenants and twelve 'saer'-tenants. *As to* his 'giallna'-tenants, four cows with their accompaniment *are due* to him from them, and five male 'colpach'-heifers and six 'dartaid'-heifers every winter, together with his summer food. Eight 'cumhals' is his proportionate stock from a king. Four cows with their accompaniment are the food-rent of his house. Eight is his company in his territory; six his half company. Butter with salt is *due* to him at all times. Eight *attendants* upon sick-maintenance *are due* to

Vide, C. 1528. In his first translation he seemed to consider 'ꝓoꝉeıꞇh' as equivalent to 'ꝓoꝓꝉeꝺ,' and explained it as a 'feast to which the 'aire' was invited outside his own territory.' In C. 73–76, the word occurs in connexion with the term 'airecht,' a 'court' or 'assembly,' and is explained as meaning 'a court that is by itself (apart) scrutinizing what is right.' "

Crith Gabhlach.

no arr, ar it gella, 1 noirr, 1 trirri, 1 cóicid [1 nomaid], ndechmaid, 1 ndomnach. Ric reot a eneclann. Immurtoing, ir naidm, ir raith, ir aitiri, ir fechem, ir riadnairi frui. Act comren ma tacra, cen airech cen airlicud. Tricha Lanamna aice for cái ó calaind co himit; ar ir a lín biadta bír lín for cái. Noi traiged .xx. a téch; a nói .x. a airchai. Ocht nimdai irin tig, cona nog tincar tigi airig túiri, im ré brothracha cona córus tincair itir corcaillí ocus gaimniu fuidi. Sretha córai irin tig; airobor cach méit, ocus iarri cach gnima, ocus huma lertrai im chairi 1 talla bóin co tinne. Céili coem[t]ecai lair, 1 féor rathaib rig. Da echrrian .x. im [r]rian noir, alaili arggait. Ní airrc do draetli, milchu, laechraid, orcca, lia a ben. Dithi acced cecha laubrai, la arathar cona óg corus dligid. Da capal do for tred. Cetmuinter co córus lán recta lanamna comceniuil. Combi lan congnam 1 tuait, do aíbdenaib, do noillecaib, do gill, do giall do cairdiu tar cenn cinniuil tar crich, ocus 1 tech flatha. Arneat córus irráith a athar ocus a fenathar. Documbaig a rlan ara fornert. Fortoing for grad arid nírliu, ocus forernnat a nóillig.

Aire forggaill cid ara neper? Ar ir he forcgella for na grada do ruirmirem, nach airm inda tochrathar imim rena, huaire ar nuairr a febur indata a celi. Cethrada céili la ruide; fichi celí giallna, ocus ficit foercéili. A fichi gialnai, coic bai cona timtug do huadaib, ocus ré colrdaige firinn, ocus noi

[1] *Without delay.*—The Irish 'cen airech' might also mean, "without any one having to pay them for him."

[2] *Thirty couples.*—This does not hold good here. The number of his tenants is 27, and his number on the 'coshering' or visitation feeding should be the same.

him, *and* the maintenance of eight. Butter with salt *is due* to him, and ale or milk, for which a pledge has been given, on second day, on third, on fifth, on ninth, on tenth, *and* on Sunday. Twenty 'seds' *is* his honor-price. He is an oath, he is a binder, he is a guarantee, he is a pledge, he is a party to a suit, and a witness to that extent. He pays, if he is sued, without delay,[1] and without borrowing. Thirty couples[2] he has on a feasting (*coshering*) from the Calends to Shrovetide; for it is as the number of those fed by him his number upon a feasting is. Twenty-nine feet *are the dimensions of* his house; nineteen feet *of* his back-house (*kitchen or larder*). Eight beds *are* in the house, with their proper furniture, *as required* for the house of an 'aire tuisi'-chief, with six couches and[a] their proper furniture, both[b] pillows and sitting skins.[3] Proper ranges *are* in the house, yew vessels[4] of every size, and iron for every work, and bronze vessels, together with a boiler in which a cow and a hog will fit. He has a companion tenant in *receipt of* 'saer' stock from a king. He has twelve bridle-steeds, with a golden bridle, *and* another of silver. It is no disgrace (or trespass) to him *to have* a pet hog, a greyhound, a calf, a lapdog with his wife. He has implements for every kind of work, with *the implements for* ploughing, with all things that lawfully appertain to them. He has two horses upon the road. He has a first wife in the full propriety of the law of marriage, *one* of equal family (or race) with himself. So that he has full assistance in the territory as regards prosecutors, swearers, pledges, hostages *to be given* in *cases of* interterritorial regulations, for (*on account of*) his family (*or tribe*) beyond the territory, and into the house of a chief. He makes (*assists at making*) 'corus'-arrangements in the 'raith'-right of his father and grandfather. He recovers their guarantee by his own power. He swears for the grades that are lower than himself, and he dissolves (or arranges) their oaths.

[a] Ir. *With.*
[b] Ir. *Between.*

The 'aire forgaill'-chief, why so named? Because it is he that testifies to *the character of* the grades we have enumerated, in every case in which denial *of a charge* is sought, because his quality is superior to that of his companions (*brother 'aires'*). He has forty tenants; twenty 'giallna'-tenants, and twenty 'saer'-tenants. He has five cows with their accompaniment from his twenty 'giallna'-tenants, and six male 'colpach'-heifers, and nine 'dartaid'-heifers every winter, together

[3] *Sitting skins.*—That is (Professor O'Curry remarks) "skins stuffed with feathers."

[4] *Yew vessels.*—For 'ɑɲoboɲ' of the text, C. 503, reads 'ɑɲbɔɲ.'

Crith Gabhlach. ndairtaide cech gaimrid cona rammbiud. Coic reot déac a enechclann. Immurtoing, ir naidm, ir rath, ir aitiri, ir fechem, ir fiadnaisi friu. Feritor cen airech cen airliciud cia thaccrai. Noi cumala a thaurcreicc o mar flaith. Cóic bai cona thimthuch bés a thige. Nonbur a dám inna tuath; morrefer fo lethe Imm do co tairfon, ocus faill, ocus cuirm no arg, ar it gellai, i ndirri, i trirri, i coiccid, in nomad, i ndechmaid, i ndomnach. Tricha traigid a tech .xx. traigid a richai. A freathai tige, a foluid a clethe, a ec[h]freim, a comopar cach raithe, a cetmuintirus a corus dligid.

Tanarri rig cid ara neper? Ar indí frisaicci tuath huili do rigiu cen cornum frir. Coic fenclethe forcraid laigi fech airig forggaill. Dechnenbur a dam i tuaith, ochtar foleithi, dechnenbur fo[r] folach, co cetnu órdur; co ninnsucur clethe, collín eochraide, co comopar cec raithe, co cetmuintirus dligid. Dech cumalai a thaurcreicc; ré bai bés a tige. Tricha fet a enechclann. Immurtoing, ir naidm, ir raith, ir aitiri, ir fechem, ir fiadnaise friu. Feritor cen airech, cen airliucciud, cia tacrai.

Ri cid ara neper? Ar indí rigis chumachtui cunnrig for a tuatai.

Cair—Cirlir fodlai for rigraib? Teoir fodla. Cateat? Ri benn, rí budein, rí bunaid cach cinn. Rí benn cetamur, ced ara neper? Ir he rí tuathi inrin lar mbiat .uii. ngraid fene cona forodlaib i céilrine; ar it he benna flatha do ruirmirium. .Uii. cumalai a enechclann, cumal cech primgraid bis fo a dumachtu. Imurtoing, ir naidm, ir rath, ir aitiri, ir fechem, ir fiadnuise friu. Feritor cen airech cen airliccud, cia tacra. Da fer déc a dam na tuath; nonbur, foleithi. Dechenbur for folach, for a dorus biata. Di cumal .x. a taurcreicc; re ba bés a thige.

[1] *The power of binding over his people.*—O'Curry in his second translation renders this clause "The power of castigation over his territories."

[2] *A king of hills.*—The word 'beann' means "peaks, hills, horns, spears." It might mean here hills on which meetings or assemblies were held. *Vide* C. 220. where the 'Crith gabhlach' is referred to as a part of the 'Senchus Mor,' and where several explanations of 'Ri beand' are given.

with his summer-food. Fifteen 'seds' is his honor-price. He makes oath, he is a binder, a pledge, a party to a suit, and a witness to that extent. He pays when sued, without any one having to pay for him, without borrowing. Nine 'cumhals' are his proportionate stock from a great chief. Five cows with their accompaniment is the food-rent of his house. Nine is his company in his territory; seven his half *company*. *He is entitled to* butter with salt, and salt meat, and ale or milk, for they are given to him, on second day, on third, on fifth, on ninth, on tenth, on Sunday. Thirty feet is *the length* of his house, twenty feet that of his backhouse. *He has* his house furniture in small things, or large things, his bridle steeds, his implements for every quarter, his first wife according to the propriety of law.

The 'tanist' of a king, why is he so called? Because he has a right to rule the whole territory without opposition to him. He has five 'sencleithe'-tenants more than the 'aire forgaill'-chief. Ten is his company in the territory, eight his half *company*, ten *attendants* in case of sick maintenance, according to former regulations; with fitness *of furniture* in large articles, with his full complement of horses, with the implements for work of each quarter *of the year*, with a lawful first wife. Ten 'cumhals' is his proportionate stock; six cows are the food-rent of his house. Thirty 'seds' are his honor-price. He makes oath, is a binder, a guarantee, a pledge, a party to a suit, and a witness to that extent. He pays without any one paying for him, without borrowing, if he is sued.

A king, why so called? Because he possesses the power of binding over his people.[1]

Question.—How many are the divisions of kings? Three divisions. Which are they? A king of hills[2] (or horns), a king of companies, a king the source (or foundation) of every head (chief). The king of hills first, why so called? He is the king of a territory (or tribe) who has the seven grades of Feine, with their divisions as tenants; for they are the hills of a chief which we have mentioned. Seven 'cumhals' is his honor-price; a 'cumhal' for every chief grade that is under his power. He makes oath, he is a binder, he is a guarantee, he is a pledge, he is a party to a suit, and a witness to that extent. He pays without any one paying for him, without borrowing, when sued. Twelve men are his company in his territory; nine are his half *company*. Ten *are his attendants* on sick maintenance, with proper feeding. Twelve 'cumhals' are his proportionate stock; six cows the food-rent of his house.

Crith Gabhlach.

Rí buiden, cid ara nepepride? Ar indí ar naurrai da buiden, no teora mbuiden. Secht, c. cacha buidne. Ire ri teora tuaid, no cetheora tuaid inrin. Ocus cumala a enechclann. Huaire do foxla ilgiallu, a dáo no a tri, no cethair, amail aridain [fenechus].

Rí miduaridu mescraid fecht,
Na demogaid mesc maá,
Dligid cumal for a fecht
Do a diriu dán.

Cethri fichit fer a dám ina tuaid, da fer déacc foleithi. Coic cumala décc a thaurcreicc; ocus mbai bés a tigi. Is difolaig ri buiden. Ocus cumala ar agellat a folad, ocus cumala a eneclann. Immurtoing, is naidm, is fiadh, is aitiri, is fechem, is fiadnaisi. Fesidhor cen airec cen airlicud, cia thacrad.

Rí bunaid cech cinn, dno, cid ara neper?

Ar indí is fo cumaidtu a éunorug bíid cech cenn nad timmairgg a coimdiu; húaire forcétt ced cenn ber dreccai inní ber étrecca. Ire rí ruirech inrin; da .uií. cumal a enechclainni; huaire mbíte rí ocus tuaidai fo cumaidtu ocus a chuindriug. Immtoing, da .uií. cumalai. Is naidm, is fiadh, is atire, is fechem, is fiadnaire friu. Trica a dám inna tuaid; fecht .c. foleithe; docundriug la cach. Difolaig rí ruirech, ocus rí eicis, ocus brúgaid i ngriadaib tuaithi: leth folad ced graid do a macc dligthech, do a mnái; ar is leid ced dligthig, cethramad cach indligthig. Banamus a folac a incaib maicc no céli. Rechtairi, tectairi folongthar leth folac a fiadhi. Gnítt cumma la cainóm a ngnímo a folach fo a mbiathad lia fiadt.

[1] *Not to go on sick maintenance.*—That is (says Professor O'Curry) if he is wounded he is not carried to the house of the man who inflicted the wound. The expense of his maintenance is paid him in his own house.

[2] *Seventeen.*—The MS. reads seven hundred (víi cét), but from the analogy of the other cases treated of, it is plain that the scribe must have written in mistake, cét a 'hundred,' for 'déc,' ten.

A king of companies, why is he so called? Because of the fact that he is leader of two companies, or three companies. *There are* seven hundred in each company. He is the king of three territories, or four territories then. Eight 'cumhals' is his honor-price. For he takes many hostages—two, or three, or four, as it (the 'Fenechus'-law) says.

"The king of Michuairt who drinks but lawfully,
Whose intellect, is not obscure by inebriety,
Is entitled to a 'cumhal' over seven,
To *be paid* him as the 'dire'-fine of his rank."

Four score men is his company in his territory, twelve men are his half *company*. Fifteen 'cumhals' is his proportionate stock; eight cows are the food-rent of his house. A king of companies is not to go on sick maintenance.[a1] Eight 'cumhals' are given him in lieu of sick maintenance; eight 'cumhals' *are* his honor-price. He makes oath, he is a binder, he is a guarantee, he is a pledge, he is a party to a suit, and a witness. He pays without any one paying for him, without borrowing, if he is sued.

[a] Ir. *Not maintainable.*

A king, the origin of every chief,[b] why so named?

[b] Ir. *Head.*

Because of the fact that it is under the power of his control every chief is who cannot be corrected by his *own* lord; for every chief who is more powerful takes precedence of him who is less powerful. He is the king of kings then; twice seven 'cumhals' are his honor price; for kings and peoples are under his power and his correction. He makes oath *to the value of* twice seven 'cumhals.' He is a binder, a guarantee, a pledge, a party to a suit, and a witness to that extent. Thirty is his company in his territory; seventeen[2] his half *company*. He is not coerced by any one. A king of kings, and a poet-king, and a 'brughaidh,' are not to go on sick maintenance among the grades of the people. Half the sick maintenance of *a man of* every grade *is due* for his lawful son, *and* for his wife; for it is half that *is due* for every lawful *person*, one fourth for every unlawful *one*. The wives of mercenary soldiers[3] have sick maintenance in right of their sons or husbands. Stewards, *and* couriers are sustained with half the maintenance of their chief. They arrange that their share in the maintenance corresponds with their sustenance by their chief.

[3] *Mercenary soldiers.*—Cormac's Glossary derives the term 'amos' from 'ambsos,' 'restless,' because he (the 'amos') is never at rest or stationary, but going from place to place, or from one lord to another.

Crith Gabhlach.

Cach dán do gní aicdi flatha no ecalfa folongar leth folach a míad caich arfa aicdi do gní. Folach cech graid a eclais fo comgrad tuaiti. Cach mathair lia mac for folach dia marathar. Itéd fodlai flatha do fuirmirem imaberat fullechtai flaithemnais a fomoinib fét.

Cair—Ciade ar fruthiu, in rí fa thuath? Is fruthiu in rig. Cia do comfruithe? Ar is tuath oirdnitheri ri, ni rig oirdnitheri tuaith.

Cateat folaid rig do tuaith notnoirdnitheri?

Nóaill tar a cenn fri rig ocus crichí. Is toing dib, fortoing huadaib .uii. cumala. Téit i combreith, i comfiadnaisi fri rig tar cenn a thuaithi. Dligid conda brithemain firian dóib. Dligid gell tar a cenn. Dligid folach amail folongar. Dligid nad ngellai oenach forru, nad tuinmell tuath ule acd comaithe.

Teora tomaltu ata corai do rig for a tuaitha. Oenach, ocus dal do cundrech, ocus tocomrac do crich. Is tuaithi cammae comarggud oenaig. Is rig ní gellus ar oenoch; act nop cóir ní gellus.

Cair—Cirlir ata corai do rig do giull for a tuatha? A trí.

Cateat? Gell flogad, gell rechtge, gell cairdi, ar it lieira tuaithi huli inrin.

Cair—Cirlir flogad ata chodrai do rig do giull for a tuatha? A trí.

Cateat? Slogad hi crich a medon fri indnaide flogid thairsi; flogud co hor crichi fri forcrin fir ocus dligid, conit roib cath no cairdde; flogud tar crich fri tuaith aratlúi.

[1] *On behalf of the territory.*—The Irish may also mean 'at the border of the territory.' It was (says O'Curry) the ancient custom in Ireland, when a new

Every artisan who makes the manufactures of a chief, or a church is sustained with half maintenance according to the rank of each person whose manufactures he makes. The maintenance of every grade in the church is the same as that of its co-grade in the laity. Every mother goes with her son upon sick maintenance if she be living. These are the divisions of chieftainship which we have enumerated among whom distinctions of chieftainship are produced from their rents in 'seds. CRITH GABHLACH.

Question.—Which is the higher, the king or the people? The king is higher. What makes him higher? Because it is the people that ordain the king, not the king that ordains the people.

What are the benefits of a king to the people that ordain him?

He swears for them to the king on behalf of the territory.[1] He denies (or makes oath) on their behalf, he proves for them *to the extent of* seven 'cumhals.' He goes into co-judgment, into co-evidence with the king for his people. They are entitled to righteous judges for them. They are entitled to a pledge on their part. They are entitled to sustenance as they sustain. They are entitled that he does not pledge them for a fair, that he assemble not the whole territory, but the neighbours (or co-occupants).

To three spendings is the king entitled from his people ;[a] a fair, and a meeting for correction,[2] and accompaniment to the boundary. It is the people in common that assemble a fair. It is the king that pledges them to the fair; but he pledges them to what is proper.

[a] Ir. *Are proper.*

Question.—How many things are proper for a king to pledge his people to? Three.

Which are they? A pledge for hosting, a pledge for right, a pledge for interterritorial regulations, for all these things are for the good of the people (or territory).

Question.—How many hostings is it right for a king to pledge his territory to? Three.

Which are they? A hosting within the territory for conveying another hosting over it; a hosting to the border of the territory to determine truth and right, so that it may be battle or relations of peace ;[b] a hosting over the boundary against a territory that has revolted.

[b] Ir. 'Cairdde.'

king succeeded, that he went all over the province or kingdom, and received the allegiance and the hostages of all the minor kings, and chiefs, and people.

[2] *A meeting for correction.*—The Irish thus translated may also mean "a meeting for making a contract."

Crith Gabhlach.

Ataat dan, ceithearai rechtgi gellus fris for a tuathai. Cateat? Rechtgai fenechair cétamus. It tuatha dond egúiset. Is fris no de dlúthai na tearai rechtgai aile, is fí do de nimmairgg. Rechtga iar cath tomadommaim fursu, co ro dlúthat a tuatha iarom ar namma conbba dóib; occus rechtga iar nounebai; ocus rechtga fris, amail fonngab rechtga fris cairil la mumain. Ar ataat tearai rechtgai ata córai do fris do giull for a tuatha; rechtgai do indarbbu echtarcinúl .i. fri faxánu, ocus rechtgai fri tuar torraid, ocus rechtt crettme adannai, amail fonngab recht adamnain. Ite folaid fír flaitheman indo for a túatha, ocus ni is forge goi na écin na forniurt. Rop slan etarggairech fírian itir lobru ocus triunu.

Ataat dan a tri aili todacrat do fris. Rop fer cach leithi lan dligid. Rop fer frecmairce firr. Rop forus ainmnet.

Ataat cethair toraíc do berat dire naithiz do fris. Cateat? A thoraic for teora lorggaib athich; lorgg forcca, lorgg framtaigi, lorgg frammai, ar cén mbir forraib is aithech; a thoraicc a aenur, ar ni corus do fís imtheċt a aenur. Ised laa indin fortoirgg ben a aonur am macc for fris, laa na tabir neich a tert aċt namma.

Ataa mi nad nimtét fí aċt cethrar. Cia cethrar? Ri, ocus brithem, ocus diar i manchune. Cia mí in nimtet in tuċt sin? Mí filtai. A guin inna ticúlaid, dna, oc teched arrai do ber dire naithaiz dó. Aċt mad tréo do cói, ar is amlaid fó ón direnatar ticúlaid fris ar a inchaib.

Ata, dna, fecht mónaid i corus fís .i. domnach do ól corma, ar ni flaith techta nad ingella laith ar cach ndoinnich; luan do brethemnar, do chocceltad tuath; máirt oic frochill; cétuin do déicsiu milchoin oic toirenn; tarabain do lánamnar; ain diden do rethaib ech; fadarn do brethaib.

[1] *Sowing of seed.*—When his subjects (under-kings) were fighting and neglecting to sow the seed, he compelled them to change their course. *Vide*, O'D., 1778, *et seq.*

There are now four rights which a king pledges his people to observe.[a] What are they? The rights of 'Fenechus'-law firstly. It is the people that proclaim it. It is the king that proclaims the other three rights, *and* it is the king that enforces them. A right after they have been defeated in battle,[b] and he consolidates his people afterwards so that they be not broken up; and a right after a mortality; and the right of a king, as is found the right of the king of Cashel in Munster. For there are three rights which it is proper for a king to pledge his people to: a right to *help him to* drive out foreign races, i.e. against the Saxons, and a right for the sowing of seed,[1] and a right of lighting up religion, such as is found in the right (or law) of Adamnan.[2] These are the rights (*claims*) which a just sovereign has upon his peoples, and he exercises not falsehood, nor force, nor oppressive might. He is perfectly recognisant and righteous to *them all* both weak and strong.

[a] Ir. *Upon his people.*

[b] Ir. *After a battle has been broken upon them.*

There are now three other things required from a king. He must be a man of full lawfulness in all respects. He must be a man that is consulted for knowledge. He must be learned and calm.

There are four actions (*descending from his dignity*) that bring the 'dire'-fine of a plebeian to a king. What are they? His action upon the three handles belonging to a plebeian; the handle of a clod-mallet the handle of a shovel, the handle of a spade; for as long as he is at them he is a plebeian; his action in going alone, for it is not proper for a king to travel alone; this might be the day upon which a woman alone (*without any witnesses*) might swear her child upon a king, a day upon which no one could give testimony but *herself* alone.

There is a month in which a king goes forth four only. What four? A king, a judge, and two in attendance. In what month does he go forth in that manner? The month of seed-sowing. To get wounded in the back, now, in retreating from a battle field, gives him the 'dire'-fine of a plebeian. But if it is through him *backward* it (*the weapon*) has passed, *it is not so*, for 'dire'-fine is paid for the back of a king in right of his front.

There are, now, seven occupations in the 'corus'-law of a king, viz.: Sunday for drinking ale, for he is not a lawful chief who does not distribute ale every Sunday; Monday for judgment, for the adjustment of the people; Tuesday at chess; Wednesday seeing greyhounds coursing; Thursday at marriage duties; Friday at horse racing; Saturday at giving judgments.

[2] *The law of Adamnan.*—This is a curious law which had for its object the releasing of women from the obligation of going out to battle.

Crith Gabhlach.

Ataat tri toichnedai frir ná ruibe corad (no tocrad) rig, cia béth ri imchoirle iarin noul triitt; toichniud iar nélaud aige dia folaid, acht ní ro fúit[er] oilcc dia guin; toichniuch iar netiuc, ar ir mó dorlí oldáar aón, huarle dorlíi lóg a enech.

Cair—Cia ir cóir ocus ir tecdai do denum bíid rig?

Fergnío tri forggaib?

Cateat risi? Fer forforggaib; forggab for a comlonn co tredoa in fer tria sciath; fer gaibes fer beogabail, ocus aritngaib i ród. Fer benar dam oen bemmim nad fuídle; fer forgaib cimbid cen aurlúd; fer forgaib eclann ar belaib sluaig co tuit di aen forggub.

Ataat dno tri aurrach nad accladat rig; errech ar tuaith arindlúi o conindruid; errech in tan mbír rí a nechtair leis inna thuaid fadeirin mani roa duini; errech disfeirccrlabrai i ndithraib iar tuidecht tar crich. Aigenedar huád do cach bera cethrai na dá neirrech ndedenach nad aithgeinethar hi tuirech act mad indruth nindligthech.

Cati chorus dono rig bís hi forus doglerr ar chinn a tuaid .uii. fichit traiged di traigtib innraiccib mett hi dúne cach leith; .uii. traigid deiged a thalmatha; da traig .x. dna, a domna. Ir ann ir rig an tan dot nímcellat drechta gialna. Cati in drecht gialnai? Da traig .x. lethet a bél, ocus a domnai, ocus i fot fri dún. Tricho traigi a fot i nechtair. Cleirig do denum idigi a thigi. Cairr cóil, cairr óine cech fir dia rogbai. Into flaith bachoilo ní dlig dénum a dúni act a thech namma. .uii. traigid trichot i tech. Dí immdai .x. hir rigtig.

[1] *Refused.* Professor O'Curry refers here to the story of Felim Mac Crimthan and the Dalcassians.

[2] *One thrust.* The word "forgab," means sometimes 'a thrust of a spear,' sometimes 'arresting.

There are three fastings which bring no offence to a king; *fasting* when[a] the king be at (*depending on*) a boiler which has leaked; fasting after part of his supplies has been withheld, but no men have been sent to wound him (*the defaulter*); fasting after being refused[1] *his supplies*, for it is then he is entitled to it more than any one, because he is entitled to his honor-price.

[a] Ir. *Though.*

Question.—Who is it that is a proper and lawful person to prepare the food of a king?

A man of deeds of three captures.

Which are they? A man who has made a capture; he captures in single combat in which he pierced the man through his shield; a man who captures a man by living capture, and who captures him on the battle-field; a man who fells an ox with one blow without leaving *any part uncut*[2]; a man who captures a criminal without having been ordered; a man who captures a champion in the front of an army, so that he falls by one thrust.[3]

There are now three 'aurrach'-taxes[4] which a king does not pay (*is not held responsible for*); an 'errech'-tax of a people (*or territory*) that has revolted, while he is reducing it; an 'errech'-tax when he has an extern king with him in his own territory, if some person does not relieve him; an 'errech'-tax of dry cows in a waste, after having come over the boundary. He restores the two last 'errech'-taxes (*levies*) to each person whose cattle they are; he does not restore in the first case unless it be an unlawful inroad.

What is the 'corus'-law as to the king who is always resident at the head of his people? Seven score feet, of lawful feet, are the dimensions of his 'dun'-fort every way; seven feet is the thickness of its mound *at top*; twelve feet *is its thickness at* bottom. It is then only is he a king, when he is encircled by the moat of servitude. What is the moat of servitude? Twelve feet is the breadth of its mouth, and of its bottom (or depth), and its length is the same as *that of* the 'dun'-fort. Thirty feet is its length on the outside. It is clerics that make the prayers of his house. A cart-load of firewood, and a cart-load of rushes to each man who so prayed. The 'pilgrim's staff'-chief[5] is not entitled to have his 'dun'-fort built for him, but only his house. Seven feet and thirty is *the length of* his house. Twelve beds *are* in the royal house.

[4] *'Aurrach'-taxes.*—That is, extraordinary taxes, or levies, or exactions. 'errech' and 'aurrach' mean the same thing.

[5] *The pilgrim's staff-chief.*—That is, the chief or king who goes away on a pilgrimage as an absentee.

Crith Gabhlach.

Co fernar tech rig? Amuis rig hi foitriu.
Cair—Cirné amuis ata córai la rig?
Fer foerus di crú, fer foerus di gabail, di immidecht; fer foerus di fognum, di doerbothud, di doer-fuidrer. Ní bí occai fer foerus a rói, ar nach roimre, no ar nach roimre, no ar nach rubai, a foethaib ar connalbai.

Cia lín di amraib ar óir la rig? Cethrar .i. rigdig, ocus feirtheth, ocus da taebtaid, ite a nanmann. Ite ata chorai do buith i foitriu taige rig ara choemtecht a taig immach, imaig i tech. Fer gill do gialdnaib friu aníar.

Cia miad fidi? Fer lar mbí tir .uii. cumal, for bí a fetaib itir flaith ocus andoin, ocus chorus feni. Tecdai fri fudi níar. Daama iarfudiu. Eccis iarfudib; cruitti iarfudi; cuslennaig, cornairi, cleramnaig a naidiu foitri. Is inn let eliu a fochlu fénnid. Fergnío fri forngairi ndorus. Ac charr ar bélaib cechtar naei do grés fri cumacc churmtigi. Soércéli na flatha friu aníar. Oes infin bid coemtecht do flaith. Géil iarfudiu, bruthem iarfudiu. I ben no a bruthem frifuidi inníar; fri iarfuidiu. Gel dithma i nglarib i naidiu fochlai.

Ri tuaithe, di feraib déacc do lesraib tuaithe follong tuath fadessin fria taisceti. Da fer deac dna, dám essuic di lesib eclesi ocus tuathi imtéit cadessin. Ar ni lacu tuath dámrad rig ocus essuic diam di gress forngelat. Dám fuad dna, di ferib déac.

Cia de isruithiu, in rig fa essuc? Isruithiu essuc, huairi airnéraig rig fo bith cruitme. Tuarguib essuc, dno, a glun fria rig.

[1] *In the hands of the chief and the 'andoin' church.*—That is, pledged to them for the good conduct of himself and his family. The phrase, however, might mean, "whose paths are good between the chief and the 'andoin'-church, and his lawful family adjustments."

What is the arrangement of a king's house? The body-guard of the king are on the south. CRITH GABHLACH.

Question. Who are the body-guard that a king ought to have?

A man whom he frees from a dungeon, a man whom he frees from the gallows, from condemnation; a man whom he frees from servitude, from 'daer-bothus'-ship, and from 'daer-fuidher'-ship. He has not a man whom he saves on the battle-field, lest he may lay hands on him, or kill him, out of devotion *to his own chief or people.*

How many body-guardsmen are proper for a king? Four, viz., a front man, and a rere man, and two sides men, these are their names. It is they that are proper to be in the southern part of a king's house to attend on him in going out of the house, *and* from without into the house. A pledged man of the pledged men (*hostages*) *is to be* with them behind.

What is his distinction? A man who has land of *the value of* seven 'cumhals,' whose property is *in the hands*[a] of the chief, and the 'andoin'-church,[b] and *for lawful observance* of the 'corus Feine'-law. He is seated by these, behind. The companies (*the king's visitors*) *are* behind these. Poets *are* behind these; harpers behind them; flute-players, horn-blowers, and jugglers *are placed* in the south-east part. In the other side *of the house* is his champion's seat. A man of deeds *is placed* to guard the door. His spear *is placed* in front of each of the *last* two perpetually against the confusion of the ale-house. The chief's 'saer'-tenants *are placed* behind these. These are the parties who are the companions of the chief. Hostages *are placed* behind these, judges behind them. His wife, or his judge *is placed* behind these; the king behind these. Unredeemed pledges (*hostages*) in locks (*locked chains*) *are placed* on the east side of the champion's seat.

[a] Ir. *Between.*

As regards a king of a tribe (*or territory*), twelve men are supported by the territory on his excursions for the good of the territory. Twelve men now are the retinue of a bishop, when he travels for the good of church and territory. For a territory could not bear the retinues of a king and of a bishop if they were constantly feeding on them. The company of the doctor *in poetry, &c.*, now, is twelve men.

Which is higher, a king or a bishop? The bishop is higher, because the king stands up (*to salute him*) by reason of religion. A bishop, however, raises his knee to a king.

Crith Gabhlach. Oligthir brethim la rig rod bo brithim caderin. Amail ar in can fenechar.

"Mad be rig, ro ferr
fecht flatha fo thoth;
lar mbiad mercbaid;
a flóg fabaid;
cuirmmtigi cuir merca;
merr tiri;
tomus forrach;
forberta tiri;
dithle merraid;
mor muin mrugfrechtai;
mrogad coicrich;
cor cualne;
córus rinde;
rann itir comorbbo;
comaithig do garmmaim;
gaill comlaind caithigti;
irtoda anagraitto rig;
raith commairgi chorus,
co ferrur fédaib felb;
flán cech comaithcer cuirtar;
gellaib gellthar;
rmachaib miach molaugha;
luag ndíri;
díri naurbai ó dartaid co dairt
dochum colpdaigi;
co cóic fétu cingit."

It is lawful for a king to have a judge though he is himself a judge. As the 'Fenechus'-law sings—

"If he be a king, he knows
a chief's rights from the foundation;
He shall have ale paid him with food.
He shall have a brave army;
an inebriating ale-house;
the appraisement of land;
measurement by poles;
to award of 'dire'-fine;
an increase of fruits;
an increase of cattle on the land;
extension of boundaries;
a setting up of stakes;
adjustment of sub-divisions;
division among 'coarbs';
setting up of stakes;
invitation of co-occupants;
foreigners for combat and battle
are requisite for a king;
a guarantee of lawful protection for adjudication,
until the owner of property shall be known
he fulfills all *duties of* co-occupancy to which he is bound;
all promises promised:
sacks of damages he appraises;
the value of 'dire'-fine;
the 'dire'-fine of corn
from a 'dairtaid'-heifer to a 'dairt'-heifer,
up to a 'colpach'-heifer;
to five 'seds' it progresses."[1]

[1] *It progresses.* These sentences appear to be catchwords or mnemonics, probably in some kind of verse originally. In their present state, however, it is difficult, if not impossible, to arrange them according to any regular form of Irish metre, or to make any good sense of them.

Crith Gabhlach.

SEQUEL TO CRITH GABHLACH.

Crith Gabhlach.

Sequel to Crith Gabhlach.

Cirlir togairmend techtaire miadlechta?

Nin—A re xx. it. .i. triath, [ri] ri, rig tuaithi, aire forgill, aire airo, aire tuire, aire dera, airi fine [iona, anfruth], dae, oglaithem, lethlaithem, flaithem oenercha, bo-aire, tanaire bo-aire tuiri, huaithne, feirthiud, far faigde, aithech baitre, bogeltach faithche, oinmit, midlach, reim, friarcaire, findach brothlaige.

Cirlir a ndligi iar miadaigecht indeolaid ir na miadlechtaib?

Nin—A noi; coferthar cia meit i nairtaithes cach dib, itir a lin ocus a nuaithe, itir a mbiathad ocus a nerain, itir a ngnim ocus a ndigdin, itir a rath ocus a rathugud, itir a faeram ocus a tuirthiugad, itir a nenechlann ocus a nenechruice, ocus a nenechrith.

Cirlir do berad miad ocus enechann do cach?

Nin—A tri: airilliud, ocus indrucud, ocus endoce. A tri, dno, atlendai miad contre ar cach .i. anfolad, ocus docend, ocus anendge.

Triath, .i. rig, amail irber:

"Triath throm thremaetha
Erind tuath o tuind co tuind;
Tairchella tomur, conid
Iar na durn toimdithes."

Dligid a raeribiathad fo lin, cin timdeibe, frecib du timchella. Dligid .u. cumala derggoir, fichid logmoir, dia digain, dia

[1] '*Esain.*'—It is very difficult to fix the exact meaning of the terms 'erain,' 'digain,' and 'rathugadh,' which occur so frequently in this tract, and in other parts of the Ancient Laws of Ireland. No gloss on 'erain' is known to the Editors; in one place (C. 509) 'earain' (probably another form of the same word), is glossed 'innarbad,' 'expulsion,' 'banishment.'

SEQUEL TO CRITH GABHLACH.

How many are the legitimate titles of dignity?

Answer—Twenty-six, i.e. a 'triath'-king, a king of kings, a king of territories, an 'aire forgaill'-chief, an 'aire ard'-chief, an 'aire tuise'-chief, an 'aire desa'-chief, an 'aire fine'-chief, an 'idhna'-person, an 'ansruth'-person, a 'dae'-person, a full 'flaithem'-person, a half 'flaithem'-person, a 'flaithem' of one vessel, a 'bo aire'-chief, a 'second of a bo aire'-chief, an 'uaitne'-chief, a henchman, a man who has lost his patrimony, a 'baitse'-tenant, a cow-grazer of a green, an 'oinmit'-man, a 'midhlach'-man, a 'reim'-man, a 'marsh'-man, a crumb-fox.

How many are their legal rights according to their rank in the dignity *laws*?

Answer—Nine; That it may be known to what extent each of them is confirmed *in his rights*, as regards their full number, and their smallest number, *at refections, &c.*, as regards their feeding and their 'esain,'[1] as to their wounding and their being insulted, as to their being treated with contempt and their protection violated, their exemption before and during refections;[2] as to their honor-price, and their blush-fine, and blister-fine.

How many are the things that give dignity and honor-price to every one?

Answer—Three: merit, and worthiness, and innocence. *There are* three things, too, that derogate from his proper honor to every one, i.e. misdeeds, and low profession, and non-innocence.

A 'triath,' i.e. a king, as it is said:

> "A mighty king who penetrates
> Erinn's lands from wave to wave;
> He goes round its measurement,
> So that by his hand it is guessed at."

He is entitled to be freely fed with his company, without curtailment, whatever place he goes round. He is entitled to five 'cumhals' of red gold, *and* a precious stone, for 'diguin'-trespass

[2] *Refections.*—See, Progress of the King of Cashel when monarch of Ireland. Book of Rights, p. 30.

Sequel to Crith Gabhlach.

eraind, no dia gnithed gnuad. Coic coicid erenn tremaethae a mamu uile, amail ro cet do Concobar:

Aed mac nig,
Ro mac Nera,
Nenaigc iadu fer fene.

Ri ri .i. ri adgiallat .uii. nig tuad. Cumal cach nig do dia air dia eraind, diadlu a dala no a cuirmtige, no a oenurd. Dligid a raoirbiathad fo lin, cin timdeibe. Da .uii. cumal dia farugud, dia éraind, dia ainmed; amail isbert Cormac: "bera do nig clothach Coiribre log cimedu do cumalaib cáinib; co a .uii. raigef aithirne, icend cacha cuindgen; coimdiliud dia diguin, no dia farugud, no gnuaide gnim."

Rig tuaiscirt toimed co a .uii.; dligid dia farugad fceo gnuaide, cumal inisic co a fecht famuithem raeirbrethaib cormaic.

Aire ard .i. forgill .i. tar cenn tuaithe comraera frim a cáin ocus a cairde; ocus ni he ar do naisc congiallna, na dliged flatha; ocus atguidetrom na tuatha, ocus is nig ar do naisc. Dligid a raeirbiathad co fuice .xxx. oc lerugud tuaithe. Dligid .uii. let cumal inraice dia diguin, dia faruguth, amail isbert cormac: "Aire ard, aird n[em]e cona tuaithe terainn; dligid dia faruguth fceo aigthe eraind .uii. lana let cumal ar cach nurconn co fuice .iii."

Aire tuisi dorat fine comcenel do co nig, ocus a forlabra. Dligid raoirbiathad .xx. in tan bis ac lerugud tuaithe. Teora letcumala ina araind ocus ina faruguth. Ut dicitur cormac: "Cain bera do cach ainig tuisi dia faruguth dia eraind, teora leire let cumala la diabul fuirimid cin airberrad."

[1] *As Cormac says.*—This quotation, and most of those that follow in the present fragment, appear to be portions of some ancient poem.

against him, for 'esain'-trespass against him, or for blistering his cheek *by satire or abuse*. The five provinces of Ireland he penetrates, *receives* the submission of all, as was sung for Concobar:

"The high son of a king,
The great son of Nesa,
Has bound (*under his rule*) the lands of the 'Feine'-men."

A king of kings, i.e. a king to whom seven kings of territories owe obedience. He is entitled to[a] a 'cumhal' for each king, for satirizing him, for his 'esain,' for absenting from his assembly, or his ale-house, or his fair. He is entitled to his free maintenance with his company, without curtailment. Twice seven 'cumhals *are the fine* for violating his protection, for his 'esain,' for making him blush, as Cormac says:[1] "Adjudge thou to an illustrious king, O Coirbre, the value of a convict of beautiful 'cumhals'; to seven '*cumhals*' the head of every beautiful face *so blistered* sues, with equal right for assaulting him, or for violating his protection, or for his cheek-blistering."

[a] Ir. *For him.*

The king of a territory is estimated to seven; he is entitled to it (*the fine*) for violating his protection and *the blistering* of his cheek; worthy 'cumhals' to *the number of* seven are adjudged him by the noble judgments of Cormac.

An 'aire ard'-chief, i.e. an 'aire forgaill'-chief i.e. a man who represents the territory,[b] whom they elect for that purpose, in *making* 'cain'-law and 'cairde'-law; and it is not he that binds in matters of 'giallna'-service, nor in *the matter of* the rights of the chief; and he prays the peoples, and it is a king that binds. He is entitled to his free feeding as far as thirty *of retinue* when *engaged in* benefiting[c] the territory. He is entitled to seven worthy half 'cumhals' for assaulting him, for violating his protection, as Cormac says: "An 'aire ard'-chief, an high dignatary who protects his territory; he is entitled for violating his protection, and for the 'esain' of his face, to seven full half 'cumhals' upon (*from*) every sensible person as far as three."

[b] Ir. *For the.*

[c] Ir. *Improving.*

An 'aire tuise'-chief goes before the families of his own race to the king, and speaks for them. He is entitled to the free feeding of twenty persons when he is *engaged in* benefiting the territory. Three half 'cumhals' *are due* to him for his 'esain' and for violating his protection, ut dicitur Cormac: "Handsomely wilt thou adjudge to each 'aire tuise'-chief for violating his protection, and for insulting him, three distinct half 'cumhals' with double feeding, without diminution."

Sequel to Crith Gabhlach.

Aire dera .i. fer conae deir nathar ocus a trenathar, amail atcota fiam, ocus do tairchid. Dligid raeribiathad deichnebuir do a tuaid. Dligid cumal cach ain co morfertar dia farusud no dia eraim. "Aire dera dichli dia diguin dia farusud; dligid flan cumal cach ain co morfertar la diabal fuirmiud do torthaibh."

Aire fine findathar .i. fer doet fine diamb iar da feta co flaith. Dligid raeribiathad .ui. ir a tuaid; dligid cumal cacha laime co cethrar dia farusud, no dia eraim, ut dicitur cormac: "Aire fine findathar a techta, dia farusud, dia thromgreraib, fceo air indligthig, fceo aigte eraim, dligid cumal cacha laime co cethrar."

Iona .i. fer oca mbi fochraiti do macaib berar do, ocus do bratrib combi .xxx. uit gairgedach. Dligid raeribiathad .u. ir oca fine. Dligid leth cumal co triar dia farusud dia eraim, ut dixit cormac. "Iona andiumrach floind coirpre lirechair, cia dligid dia farusud, fceo ai eraim anfir dligid leir leth cumal co thri firu; feir la diabal fuirmiud, connma imchartar cormac."

Anfruth .i. fer imdith a mennut ocus a crich. Guin duine do in cach threimi do ceithrib raithuib na bliadna. Ni bi ber uaitiu .xx. fri crich a nechtair. Saeribiathad cethrair do cacha leithe, no gacha cleithe ina tuaith. Dligid trian cumaile dia farusud, ocus dia eraim; ocus dligid gairced inraic ina eneclann. "Anfruth an imdich a crich cethardairo, conair gaile uad, co ndligid dia eraim ard cumal ceirt trian, fceo gairced ninnraic fri ruamna rúr"

Dae .i. fer imerta fir ar a lairge, connach tartad a com-

An 'aire desa'-chief, i.e. a man who preserves the patrimony of his father and grandfather in the same condition that he found it before him, and who accumulates. He is entitled to the free feeding of ten in the territory. He is entitled to a 'cumhal' from everyone as far as seven, for violating his protection, or for his 'esain' *as Cormac says:* "An 'aire desa'-chief thou wilt protect; for assaulting him, for violating his protection, he is entitled to a full 'cumhal' from everyone as far as seven, with double feeding, *and* with fruits."

An 'aire fine'-chief be it known; i.e. a man who leads his family when they are on their way to the chief. He is entitled to the free feeding of six in a territory; he is entitled to a 'cumhal' from every hand to four persons for violating his protection, or for his 'esain,' ut dicitur Cormac: "An 'aire fine'-chief, let his rights be known, for violating his protection for his heavy blisterings, for unlawful satire, and 'esain' of his face, he is entitled to a 'cumhal' from every hand till it reaches four persons.[a]

[a] Ir. *To four.*

An 'idhna'-person, i.e. a man who has a number of sons who are born to him, and of male relatives (or brethern) to the number of thirty champions. He is entitled to the free feeding of five from his family (or tribe). He is entitled to an half 'cumhal' from each as far as three persons for violating his protection for his 'esain,' ut dixit Cormac: "An unambitious 'idna'-person; name, O'Cairpre Lifeachair what he is entitled to for violating his protection, and untrue 'esain.' He is entitled to a clear half 'cumhal' as far as three men; broth with double food, to be inspected by Cormac."

An 'ansruth'-person, i.e. a man who protects his mansion and his land. He is allowed[b] the wounding a person in each term of the four quarters of the year. He has not fewer than twenty *attendants* in an extern territory. He has free feeding for four on every side, or from every chief ('cleith') in his territory. He is entitled to a third part of a 'cumhal' for violating his protection, and for his 'esain'; and he is entitled to a trusty sword for his honor-price. "A noble 'ansruth'-person protects his territory to its four points; there is a path of valour from (*after*) him, so that he is entitled for his 'esain' to a noble 'cumhal' of a proper third part, and a trusty sword for the reddening of his face."

[b] Ir. *For him.*

A 'dae'-person, i.e. a man who asserts the right of another; *or a man* who for another goes to fight his battle, when he has not

Sequel to Crith Gabhlach.

lonn do ríċ a gnerra cen aṡall fine aco. Dliġiḋ a raerbiathaḋ ocus a amus o caċ leiṫe; ocus leṫ trian cumaile dia erain no dia rarugud; ocus gairceḋ no timṫaċ; Ut dicitur Cormac: "Dae aro ara frém laime luiter, combi trelam tenn. Dliġiḋ cumal lettrian fria cuinnse cuċt ara dinrem, la dith tlaċta."

Oṫa rein tra, ni cumalaib a ndirse, aċt a reotuib do cethruib, no do flabra.

Ogflaithem .i. fer tri feincleiṫe cona comorbaib teċta. Dliġiḋ raerbiathaḋ deichnebuir. Dliġiḋ .x. reotu beodile dia rarugud no dia erain.

Lethflaithem .i. fer da cleithe cona comorbuib teċtaib. Dliġiḋ raerbiathaḋ oċtair, ocus .u. reotu dia rarugaḋ ocus erain.

Flaithem oen ercra .i. fer aen cleithe cona mur ocus a comarbaib techta. Dliġiḋ raerbiathaḋ coicir, ocus .iiii. reotu beo flabra, dia erain ocus dia rarugaḋ.

Do aire .i. fer felba bunaid, cona inud (no innud) do tir .x. mba lair; ocus ni goin duine aċt a lo catha; ni doing luiġe aċt fo aen a mbliadain. Dliġiḋ raerbiathaḋ .iiii. a tuaith; ocus tri reotu do flabra dia rarugud, ocus a erain.

Tanuir mbo aire; oċt mbai lair a forus, cona innud do tir. Dliġiḋ raerbiathaḋ trir i tuaith, ocus da reoit do flabra ina dire.

Huaitne; fonluing ocus frirellaġar in fer .i. frirellgeṫ troiġ ocus aideilgen; fer foloing eineċ gnera cin imluad fine. Dliġiḋ raerbiathaḋ deiri, ocus boin letgabala. .u. reotu diara (*sic*) rarugaḋ, dia erain.

[1] *Sen-cleithe'-tenants.*—Literally, 'sencleithe,' means an old wattle, or as the popular phrase goes, "an old stander." He was a man who came from his natural chief to settle under another chief; and if he or his successors continued away

the help of a family. He is entitled to his free feeding and that of his soldiers, from all sides; and to half the third part of a 'cumhal' for his 'esain,' or for violating his protection; and a sword, or a cloak, ut dicitur Cormac: "A noble 'dae'-person whose root of arm is exerted, so that it becomes a firm weapon *of battle*. He is entitled to a half third part of a 'cumhal,' for the beauty of his face being contemned, together with loss of clothes (*of the offender?*)"

From these out, now, 'cumhals' are not *reckoned* as their 'dire'-fine, but 'seds' of the cow quadruped kind, or of living cow kind.

An ogflaithem-person, i.e. a man who has[a] three 'senclethe-' tenants,[1] with their lawful successors. He is entitled to free feeding for ten. He is entitled to ten 'seds' of living chattels for violating his protection, or for his 'esain."

[a] Ir. *Of.*

A 'lethflaithem'-person, i.e. a man who has[a] two 'cleithe-' tenants with their lawful successors. He is entitled to the free feeding of eight, and to five 'seds' for violating his protection, and for his 'esain.'

A 'flaithem' of one vessel, i.e. a man who has[a] one 'cleithe'-tenant with his house and his lawful successors. He is entitled to the free feeding of five *áttendants*, and to four 'seds' of living cow cattle for his 'esain,' and for violating his protection.

A 'boaire'-chief, i.e. a man of original possession, with his profit, or place, having land of *the value of* ten cows; and he wounds no person but in a day of battle; he swears not an oath but once in a year. He is entitled to the free feeding of four, in a territory; and *to* three 'seds' of cow cattle for violating his protection, and for his 'esain.'

A 'second' of a 'bo aire'-chief.—He has eight cows in a house, with their place of land. He is entitled to the free feeding of three in a territory, and to two 'seds' of cow-cattle for his 'dire'-fine.

An 'uaitne'-person; the man sustains and oversees, i.e. he oversees the wretched and the poor; a man who sustains attacks on his honor[b] without the action of the family. He is entitled to free feeding for two, and a cow of the second quality. Five 'seds' *are the fine* for violating his protection, *and* for his 'esain."

[b] Ir. *Blister-fine.*

during the time of three successive chiefs, with the knowledge of the former chief, and unclaimed by him or his successors, he or they, then became 'sencleithe' and could not go away of themselves, nor be claimed by the other.—*Vide* C., pp. 413, 1211.

Sequel to Crith Gabhlach.

Seirtiu .i. oclaċ do dagcenel, no fer forair, no mac túirig .i. do nera do fein túirig oc taideċt anndail, no a nounad; no, uair ro bo táireċ a athair; no, dag a cinel; no, ara gair. Dligid raerbiathad i tuaid ocus a ben: ocus ramreirc focail ocus colpdach ina eneclann, dia air, dia ainmed.

Na nai ngrada deidinach fo ni tectait dliged dia mbreċ a nairecur, na damrad, na dire rainruthach, mana narta fealb, no gaer no frochraite. Ni caemtheta dire di theċta, na di thir, na dochraid na hanfolta, uair natat indraice naoma na raithe, na haitire, na naill, na riadnaire.

Far faigde .i. fer fo creca a déir, ocus a ferann, ocus a felb, ocus na techta fo tuaith co leir na cleitte, ocus co freirce cuile caith; ocus nitat dilet dodcoir fri galar no freperd; ocus ir far dno, cia foigde, mana gata, no mana creca a enech aire am[ail]. Ir far do dno, a raithce fria galar ocus a reperd mana tabra neċ ni dó ar dia. Ir far dno, a raire, ocus a dire, ocus a eneclann.

Do geltach raithce .i. fer meite coimre na teit tar crid, nad do airligid rig, acht bid ina mendat fadeirin, ar imgaib comlonn aenfir o fo bi cona gairced fair; cona dáim cáin cin feḋain do ningarar. Do geltach .i. fer fogelta a bu a raithce ar cach nach déir etar coin allta ime; conadrí main imrein. Ni dlig dire na raire, ar ir gnim meic no mna do gní.

Aitheċ baitre .i. fer na ráera dan na trebad; ni fuiled re daim in fer rin ina fuil; gnimiu laich lair. Ni téit a raith, na i naitire fri flaith na eclair, ar ir gae greine do gairter.

Oinmit; fer miter im droch mnai co [no ona] ndentar mear ocus fonachtaide .i. forgenig. Ni dlig dire in fer rin.

Midlach .i. miliaig .i. midellach .i. fer na fa gaib fealb na

A henchman ('seirthuid'), i.e. a soldier of a good race, or a householding man, or the son of a leader, i.e. he is the nearest to the hip of a leader when going to a meeting, or to a 'dun'-fort; or because his father had been a leader; or, good is his family; or for his talents. He is entitled to free feeding in the territory, and *so is* his wife; and a 'samseisc focail' . . . , and a *colpdach*-heifer *are due* for satirizing him, for abusing him.

These last nine grades do not possess the right to be taken to assemblies, nor companies *at refections*, nor to particular 'dire'-fine if they do not possess a holding, or talents, or followers (*a clan*). They do not get 'dire'-fine on account of stock, nor of land, nor for oppression, or misdeeds, because they are not worthy to enter into bonds or security, or *to give* pledges, or oath, or evidence.

A man who has lost his patrimony, i.e. a man who has sold his patrimony, and his land, and his stock, and who does not possess anything throughout the territory, visibly or invisibly, and the supply of whose stores is chaff; and he is not entitled to be advised in sickness or in cure; and his meals even are empty unless he steals, or unless he sells his honor in the same way; his green is empty to him too, as regards disease, and curing *of cattle* unless a person gives him something for God's *sake*. His freedom too is empty, and his 'dire'-fine, and his honor-price.[1]

A cow-grazier of a green, i.e. a man of small means who does not go beyond the boundary, nor to the enclosure of a king, but who remains in his own dwelling, because he has shunned a combat with a single man when he had[a] his arms on him; so it is gentle oxen that do not[b] labour he herds; *or, according to others*, a 'cow-grazier,' i.e. a man who grazes his cows upon a green on every property, between wolves all round him; and this is his wealth. He is not entitled to 'dire'-fine nor to freedom, because it is the deed of a child or a woman he performs.

[a] Ir. *Was with.*
[b] Ir. *Without.*

A 'baitse'-tenant, i.e. a man who is not freed by profession or residence; that man does not belong to[c] a company, who has not the deeds of a champion in him. He does not go security, nor is he a pledge with a chief or a church, because it is a sunbeam he is called.

[c] Ir. *Is not with.*

An 'oinmit'-person; a man who is matched with a bad wife by whom or from whom he is rendered deranged and unsteady, i.e. 'starting.' That man is not entitled to 'dire'-fine.

A 'midhlach'-person,[2] i.e. not famed in battle, ('mi-li-aigh,') i.e.

[1] *His honor price.*—His rights are lost, that is, he has lost his municipal rights.

[2] *A 'midhlach'-person.*—The term 'midhlach' occurs in Cormac's Glossary (edited for the Archæological Society, by Whitley Stokes, 1868), and is translated, 'an effeminate person not fit for war, a coward (p. 119), and 'an imbecile,' (p. 130).

Sequel to Cith Gabhlach. horba na trebad na trebċair do. No midlach .i. medon ellach mrin, ar inni ir mellach o deilb ocus cinul, cona damna cimeda imrin tar cend tuaiṫe.

Reimm dno .i. fuirreoir, no druth. Naċ fer do beir rem-mad fo corp ocus a enech, ni dligh dire uair teit ara riċt ar béluib flaṫ ocus rochaide.

Riarcaire .i. loingfech imrin ar imgaib a chenel ocus a fine co lith cain ocus recṫge; ocus bid o riarc do riarc, no o fleib [do fleib]. No riarcaire .i. rathmaiġe daer do flaith ocus eclais. Ni dligim dire.

Sindach brothlaiġe .i. bruar caċ bid do, itir dilis ocus indlis; no cuma lais cid beth bruider no do meala.

Seaachd ara midithar duine, druth, ocus cenel, tir, ocus trebad, dán ocus indbus ocus imrucus.

Miadlecta ecna tra, it ecramla fri miadlecta tuaiṫe; ar ir cumal forbaid ineclainn grad neclara, o adannad co failmcedlaiġ.

Ol fetaib, imorro, forbrat fene ocus filed, ota irel co huaral. Imurfrecrat imorro, a foristach ocus a noithech; erpuc ocus ri bunud caċ cinn, ocus ollam filid, facaird ocus fai, dno; ocus fer midbad ocus foclaċ.

Seehd ngraid ecna dno, do cuirin .i. rogai ocus faid; anrud ocus frud do aill, ocus furfraintid, ocus freirneidiṫ ocus fealmac.

Rogai dno, tri hanmanna tecṫar .i. rogai, ocus ollam, ocus fai litre. Ollam ina fuiġe a tiġ midchuarta ar ire bir a tiġ fri fiġ imrin. Rogai dno, ni urcoimdend ni a cetheora fandaib faide; a dire. Cethrar ar .xx. a dam. Uii. mad eirce a bair ina toichned.

Sai litre; ata treide conutaib lair conid comdire fri r

not possessed of cattle ('midh-ellach') i.e. a man who does not hold stock, nor inheritance *in land*, who does not plough, for whom ploughing is not performed. Or, a 'midhlach'-person, i.e. he is of middling composition in this case, because that he is middling of face and of race, so that he is the material of a victim *to be given* on account of a territory.

A clown, now, i.e. a mountebank, or a buffoon. Every man who brings distortion upon his body and his face is not entitled to 'dire'-fine, because he goes out of his own shape before hosts and crowds.

A marsh-man, i.e. this is a robber whom his race and his family shun, a violator of 'cain'-law and of law; and who goes from marsh to marsh, and from mountain *to mountain*. Or a 'riascaire'-man, i.e. a 'rath'-builder who is enslaved to a chief and a church. He is not entitled to 'dire'-fine.

A crumb-fox, i.e. he gets the crumbs (*or fragments*) of all food, natural and unnatural; or whatever he cranches or eats is his.

There are seven things out of which a person is estimated—form, and race, land, and tillage, profession, and property, and worthiness.

The distinctions (or titles) of wisdom (literary professions), now, are different from the titles of the laity; because it is a 'cumhal' of increase of honor-price that each grade of the church takes, from the lighter *of the candles, &c.*, up to the psalmsinger.

It is by 'seds,' however, the increase of the 'fene'-*grades* and the poets progress, from low to high. Their proof and their denial, too, correspond: a bishop and a king the origin of all chiefs, and an 'ollamh'-poet, a priest, and a professor however, and a 'mbidbadh'-man, and a 'fochlach'-person.

The seven degrees (or grades) of wisdom as settled *are*, i.e. a great professor and a professor; a noble stream, and a stream from a cliff, and an illustrator, and an interrogator, and a pupil.

As to a great professor, now, three names he possesses—a great professor and an 'ollamh' (chief doctor); and a professor of written history.[a] The 'ollamh' sits in the banquetting house, because it is he that resides in his house with a king on that occasion. A great professor does not fail in any question in the four departments of knowledge; . . . his 'dire'-fine . . . Four and twenty are his company. A seventh part of the 'eric'-fine for his death is paid for denying him food.[b]

[a] Ir. *Of the letter.*

[b] Ir. *Fasting.*

A professor of written history.—There are three things which

Sequel to Crith Gabhlach. Brith do i nuchtt ocus i lar a decepol ac foglaim uad. Ire fer imo dona timdibenar a dire cid faebratha fobith ar neola ina pennaib ocus ina dliged.

Arruth, dno; ar cethardda arberar .i. ar aine a forcedail; ar ilar a cetfadu; ar fulbuire a imorce; ar med a eolus; ar arecar in cach fainn, itir filidecht, ocus leigind, ocus comgne; act na foigh co cleithe nama. Da fer .x. a dámh.

Sai .i. fer forcain cethramad fainn fuithe feicibí dib, ut cennfaeládi: "Sai caém canoine, conid iarmairi an maith. Ocdar a lín; uii. cumala a dire."

Sruth do aill. Ire a berraide, baidid cach mbec nétruim naimrit; do fóxla ailde, conoirce gne triasa la ter fine. Imda famlaid in fer famailter frus; baidid driuc leigniuda fortabraigi co nailchib tertemna ocus cedraidi; ocus ir tualaing a forcetal conoirce gné nairneirin, co noilgud im an aer mbecleigind indlighecht triaigit i frecnaircus anrotha.

Furfaind[tid] dno, fortuirim a aitte i cell ollomon. Teora let cumal a dire; acus cedraid cach nurcoimded uadarom ar idna a merraigde, ocus ar aine a indliuchta.

Freirneidid .i. fricomarc dia aite i cell a olloman. Cumal a dire ocus cedraid cach nurcoimded uadarom do neoch ber andorom do.

Fealmac .i. fuilmac mic iar leigind a falm. Let cumal a dire.

Conid inand imurfrecrat gradda ecna ocus eclara fri gradda file ocus féne; act ir ecna mathair cacha dana dib, conid ar a bair uile hebaid.

Sechtt ngraid file .i. écer, anfrud, cli, cana, dor, miac fuirmid fochlocc.

elevate him till he is of equal 'dire'-fine with a king of territories. To be in the bosom and in the midst of his disciples, learning from him. This is the man to whom his 'dire'-fine is not restored should he teach (or speak) silliness, because he is well versed in his penance and in his lawful rights.

A noble stream now; for four *reasons* he is so called, i.e. for the nobleness of his teaching; for the number of his intellectual qualities; for the eloquence of his language; for the greatness of his knowledge; because he composes in every department, both poetry, and literature and synchronism; but he does not reach to the top (*of scholarship*) only. Twelve men are his company.

A professor, i.e. a man who professes a fourth part of the scientific course, whichever of them it may be, as Cennfaeladh *did:* "A comely professor of the canon, with his noble, good wealth. Eight are his company; seven *cumhals* his '*dire*'-fine."

A stream from a cliff.—The practice of that stream is, it drowns every little, light, weak thing; it carries off loose rocks, so that they acquire the appearance of the strand by reason of the heat of the weather. The same doth the man who is likened unto it; he drowns bad scholars whom he confounds with rocks of testament (*evidence*) and intellect; and he is able to modify his instructions to the complexion of *simple* information, in mercy to the people of little learning (below the average), who ebb in the presence of a noble stream.

An illustrator now: He answers his tutor with the sense of an 'ollamh.' Three half 'cumhals *are* his 'dire'-fine; and he gives the sense of every difficulty on account of the clearness of his judgment, and the nobleness of his intellect.

An interrogator, i.e. he interrogates his tutor with the sense of an 'ollamh.' A 'cumhal' is his 'dire'-fine, and he (*the tutor*) gives him the sense of everything which is difficult to him.

A pupil, i.e. a 'fuilmac'-pupil, a boy after reading his psalms. Half a 'cumhal' is his 'dire'-fine.

And so it is alike the degrees of wisdom and of the church correspond with the degrees (or grades) of the poets, and the 'feine;' but wisdom is the mother of each profession of them, and it is of her hand they all drink.

These are the seven degrees of the poets, i.e. the 'eces'-poet, the ansruth'-poet, the 'cli'-poet, the 'cana'-poet, the 'dos'-poet, the macfuirmidh'-poet, and the 'fochlocc'-poet.

Sequel to Crith Gabhlach. Ecer .i. ecrmaċtcer .i. dona bi cer na haincer do fartoḋ fair; no ni fuil ní bus cer dó ina dan, conaḋ eḋ a ainm nemcer, no ecrmaċtcer.

File .i. fialfaí .i. fai uaḋ; ar a [ní ir] feal laisin filiḋ is feis no foisceṫal isin ngnaṫhbérla; cona de ata fealmac, ocus feallsub, ocus fili, ocus filiḋeċt. No fili .i. fí ocus lí .i. fi a omna fair, ocus lí a dána.

Ollam .i. oll do eim .i. foscain ceṫora fanna [ocus fobith is lia bis]; for a dítenfom olḋaite na gnaḋa olcena. No ollam .i. oll a dám, ceṫrar ar .xx. Ar ataat tri hollamuin and .i. ollam gaisi, fai caċ eoluis ima fuigliṫeri, friscomaiscaḋ ni fresnaisc; ni beṫar aincer uaḋ i mbreṫaib aiṫbe ocus senaiṫbe. No, ollam .i. uille in lín bis for a dínfom olḋati na gnaḋa olcena. No, ollam arḋ imorro, naisci ni narcar. Caidisiḋe? Nin.—Amail fi connaċt; amail ar mbeṫar; Ni hollam narḋ cuiceḋ naiḃilla mic mata mora. No ollam .i. oll do eim .i. caċ aen bis cinuailli fis na ngnaḋ. Ollam eicsi dno, foscan ceṫeora fanna filiḋecta cin anfis ninntiuḋ. C. 2070.

Anruth .i. arḋnaisceḋ, ni narcar fair, amail ro gab fiġ erenn.

Anruth .i. fruth cain molta uaḋ, ocus fruth indbair do.

Cli .i. ise a béss na cleiṫe, is srén ocus is díreċ, ocus congaib ocus congaibṫer, dreim ocus diemar; adcumuing o cleiṫiu co lar. Is amlaid in gnaḋ isi a teaġais na filiḋeċta .i. is sren a cend, ocus is direċ a mes a cuaiss a dana; congaib a feiḃ di em bes isle, do neoċ atcumuing a dan o anruth co foċloc.

Dos .i. fo cosmailis feda fo hainmniġeḋ .i. ar tri anmain

[1] *Without ignorance in them.*—The Irish of this paragraph appears to be misplaced in the MS., where it follows the first paragraph explanatory of 'anruth.'

The 'eces'-poet, i.e. not meeting with difficulties, ('ecsmacht-ces'), i.e. *one* to whom there is not difficulty nor impossibility such as to arrest him; or there is nothing which can be difficult to him in his profession, so that his name is non-difficult ('nemces'), or who meets no difficulty ('ecsmachtces').

A 'file'-poet, i.e. 'fialshai,' knowledge ('fial') proceeds ('sai') from him; for that which is 'feal' with the 'file'-poet is knowledge, or instruction in the common language; and it is hence come a pupil ('fealmac'), a philosopher (fealsub), and poet ('fili'), and poetry ('filidecht'). Or 'fili,' i.e. 'fi' and 'li,' i.e. the venom ('fi' of his satire, and the lustre ('li') of his art.

'Ollamh'-poet, i.e. much does he protect; i.e. he teaches the four departments of (*poetry*, &c.) ('*filidecht*'); and because the number is greater which is wont to be upon his protection than *upon that of* all the grades besides. Or, 'ollamh,' i.e. great ('oll') his company, ('damh,') four and twenty. For there are three 'ollamhs' in existence, i.e. an 'ollamh' of wisdom, a professor of every *kind of* knowledge for which he is appealed to; what he is asked for, he refuses not; no difficulty is carried away from him *unresolved* in the judgments of fathers and grandfathers. Or, 'ollamh,' i.e. more numerous is the number that are wont to be upon his protection than the other grades. Or, a high 'ollamh,' he binds, he is not bound. How is that? Answer—Like the King of Connacht, as it is said: "He is not the high 'ollamh' of the province of Ailill, the son of Mata Mor." Or, 'ollamh,' i.e. much does he protect, i.e. every one who is without nobility in the knowledge of the grades. The 'ollamh' in poetry teaches the four departments of poetry without ignorance in them.

'Anruth'-poet, i.e. because he binds, he is not bound in the same way as the King of Ireland.

The noble stream, i.e. a stream of pleasing praise issuing from him, and a stream of wealth to him.

The 'cli'-poet, i.e. the nature of the post ('cleith') is, it is strong and straight, and it elevates and is elevated, it protects and is protected; it is powerful from the ridge to the floor. It is the same with this grade in the poetic house, i.e. his art is powerful, and his judgment is straight in the circuit of his profession; he elevates his dignity above those who are below him, because his art embraces all from a noble stream to a 'fochlaoch person.'

The 'dos'-poet, i.e. from similitude to a tree he has been

Sequel to Crith Gabhlach

feda forroiglenat a ndan. Imtha famlaid ir a hanmaim feda ocus a cormailer fo hainmnidedh dor; ar ir ann ir dor in crann dia bliadain, ocus it cetheora duille bit fair. Cethror, dno, dam in duir.

Mac fuirmid .i. mac fuirmithir fe dan or mac .i. ir mac da a dan .i. ni maith fograidedar fon, act ar mac airbi ir maith de.

Fochloc .i. fo cormailiur fochlocain co ndib duillib. Dir dno, dorom. No fochlaic .i foclu feca .i. cen forboirt for a dan. No, caeil a dan ar oige.

Barid, dno, cin dliged fegluime act indleacht fadeirin.
Fear cearda, imorro, lan éeird lasuide.
Cainte, fear ara frogar a biad tn . . . ainm aire.

Cerc—In forcongair tuaiscirc molta no aire?

Mad iar ndligid na treibe deoda, ni forcongair act molad de nama, ocus ir nem a log. Mad iar ndligi na treibi domonda imorro, forcongair ut Salmon quo modo comprobatur argentum in conflatorio, et in puritoce aurum, sic homo ora laudantis.

Conmidithir arim coir comaduir cach duine dein dligthide, idir mac cleirech fceo laech, idir fear ocus mnai; trefliden cach mac cleirig, no caembachall fri hurrclaide uad; cucael codat rodet do cach mnai; da gaei im echluirc naisiga cach laich ina laim; taball lorg do filedaib, iar corus a grad; ar ired a comadar coir conmidiudar arim indeand doib.

Ro midarthar morand fer faer, co cuimnib; cumal ceachar a da ful, ar éruth, ocus deicsin cumthach; cumal beil ar blaisechi ocus labrad; cumul tengad, tachtaid, dona labrad leicther; cumal trirona ar bith éluair ocus bolltnugud; da cumail cluair ar éirtecht, ocus imcoimét; cumal briged ar

! *A good 'muc-airbe,' vid.* Cormac's Glossary *sub voce.*

named, i.e. it is through (under) the name of a tree they learn their art. In like manner it is from the name and the similitude of a tree a 'dos'-poet has been named; because the time that a tree is a 'dos' is after a year *of growth*, and it is four leaves that are on it. Four now, *are* the company of the 'dos'-poet.

The 'mac-fuirmidh'-poet, i.e. a boy who is set to *learn* an art from his boyhood, i.e. his art is his son, i.e. it is not well he has graduated, but he becomes a good 'mac-airbe.'[1]

The 'fochloc'-poet, i.e. *he is named* in similitude of a sprig of brooklime ('fochlachan') with two leaves. Two persons, therefore, *are allowed* for him *as company;* or 'fochloch,' i.e. a hard sub-tree ('fochli seca'), i.e. without increase (or expansion) of his art. Or, his art is slender because of his youth.

A bard, now, is one without lawful learning but his own intellect.

A man of art, now, he *is one who* has full art.

A satirist is a man who is deprived of his refections[2] . . the name of a satire.

Question.—Is payment for praise, or satire commanded *in the laws?*

If according to the law of the divine house, there is no command but for the praise of God alone, and heaven is its price. If according to the law of the worldly house, however, it is commanded, ut Salmon quo modo comprobator argendum in conflatona, et in furnace aurum, sic homo ora laudantis.

A proper, becoming weapon is estimated for every true, lawful person, both clerics and laity, both man and woman: a three-angled stave to every cleric, or a handsome crooked staff for the purpose of defence, &c.; a slender, smooth distaff for every woman; two spears with the horse switch of a chariot-driver for every layman in his hand; a tablet-stave for poets according to the propriety of their order; because it is their becoming propriety that estimates an uncertain weapon for them.

Morann has estimated a free man, for remembrance[3]; a 'cumhal' for each of his two eyes, for beauty, and seeing, and ornament; a 'cumhal' for the mouth, for taste, and for speaking; a 'cumhal' for choking the tongue by which it is not permitted to speak; a 'cumhal' for the nose because of hearing and smelling; two 'cumhals' for the ear, for hearing and guarding; a 'cumhal' for the neck, for laughing and for voice; two 'cumhals' for the

[2] *His refections.*—The MS. is defective here.

[3] *For remembrance.*—That is as a mnemone.

Sequel to Cith Gabhlach. —— C. 2070.

fulucth guth; da cumuil di dóit ar luth ocus nirt; da chumoil di láim ar urgabail ocus fognum; da chumóil di chor ar forimteachd ocus folad; cumal brono ar thuchd ocus forbairt. [Gid fen cenobi arenaib neimdeitin dligid cus trarta.]

Cia neimead ar nairle fil i talmain? Neimed neclara. Cia neimead ir uairliu fil a neclair? Neimed nearpuic.

Ire erpuc ar uairliu dibride earbuc ecarla [ecalra] peatair, ar ir fo mám bite flaithe fomáin; ocus ni bi foe moam neich nad bi oige no aithrige, no lanamnura dligdig; conad doruidiu forraig .uii. cumal cach graid dona .uii. ngradaib filit fair, ma beit eric do itir, munabe eric, bar duine ind.

Cia hairm ita inrin? Atta irin trachtad do frigne augurtin do gradaib eclara, ocus dia ndirib, ocus dia toichneadaib, ocus a nor eclara petair, ocus imrir in beatha uile.

Atta tri cinaid fo rith duine .i. cin ar luga oldar fadeirin, icaid dia indile, cin ar cutruma frir, teit fadeirin ind, cin ar ind ináir, a bár ind, la heric o chinniud.

Ocar a neirind, cia dire ar uairle fil inde?
Dire erpuic oige cona lan foltaib amail dleagar do.

Caite riach gona erpuic oige?
Nin. Tri cinnid a crocha cada laime nodgoin; ir let riach a gona ina diguin.
Cach duine arindrirt her ocus nachid nanaig cach nirt cach fola[id] ocus co nimdeit bidbada, .uii. cumala cach ae.

Telgud fola do; ma fi talmain na fola inindrig, crocad in bidbad ind; no it .uii. cumala itir a folach ocus a éric.

Mad ina aige, arrenar comletet a aigthe do arigat, ocus a

[1] *Deeds.*—Every one who stands by and who protects him not with all his strength and with all his might, the aggressor escapes, pays seven 'cumhals.'

fist (or wrist), for suppleness and for strength; two 'cumhals' for the hand for catching and for working; two 'cumhals' for the leg, for walking and supporting; a 'cumhal' for the belly, for grace and swelling. As to this, however, though it was enacted, in the olden they are unrecognised by law at the present time.

What is the highest dignity on earth? The dignity of the church. What is the highest dignity which is in the church? The dignity of a bishop.

The highest bishop of these is the bishop of Peter's Church, because it is under his subjection the chiefs of Rome are; and they are not under the subjection of anyone who has not virginity, or repentance, or lawful espousal; and it is to him that seven 'cumhals' are payable for every degree of the seven degrees (or, orders) that are upon him, if there be 'eric'-fine for him at all; if not 'eric'-fine, *there is to be* the death of a person for it (*the crime*).

Where is this *to be found?* It is in the tract which Augustine wrote upon the degrees of the church and of their 'dire'-fines; and of their non-feedings, and the particular law of the church of Peter, and the emperor of the whole world.

There are three crimes which a person commits, i.e. a crime smaller than himself which he pays with his property, a crime which is equal to himself, he himself is paid for it, *as to* a crime which is greater than his death, *himself, is due* for it and with 'eric'-fine from his family (or tribe).

And in Erinn, what is the highest 'dire'-fine therein?

The 'dire'-fine of a virgin bishop, with his full attributes such as he is entitled to.

What is the penalty[a] of wounding a virgin bishop?

[a] Ir. *Debt.*

Answer: Three victims to be hanged from every hand that wounded him; half the debt of wounding is *paid* for insulting him.

As to every person who sees and who does not protect him by all his strength, by all his deeds,[1] and that the guilty person escapes, there are seven 'cumhals' *due* from each.

As to shedding his blood; if it reaches the ground, as blood that requires a tent,[2] the guilty person is to be hanged for it; or it is seven 'cumhals' *that are to be paid* for his sick maintenance and his 'eric'-fine.

If it (*the wound*) be in his face, the breadth of his face of silver is paid, and of the crown of his head of gold; and he sues him *for*

[2] A tent.—*Vide* Book of Aicill.

Sequel to Crith Gabhlach. mbliadan; o fuidiuḋ anunn, if cumal ind, mena dilge.

Ma anfot, if leṫ, .uii. cumala inn.

Banbeim ar aenlur, if cethruime .uii. cumala ind.

Ma ṫallar ní dia fult, fed cacha fuilte ind co fichit fuiltne.

Mara fuigiḋ ar aenlur do gabail a laime, nó a étaig, no do tircail a ḋluic aire, if leṫ fiach a gona ind. Arberat if leṫ fiach a digona araile.

In facart oige, ḋno, if tanic erpuic oige. If cumal itir aṫa a ndire do cach foġail forechur friu, ocus do caċ cata. Imtha famlaiḋ cach graḋ oige co tice ina cleirech noige, condaṫ .uíí. cumala ina guin, no cimiḋ; aċt ni cach cimiḋ, aċt .uíí. cumala ind indiu laimed na nduine no in bróḃaḋ do frogba in cinaiḋ; ocus ma do bunaḋ cinniuil do, ocus fraéréland, leṫ fiach a gona ina digain, ut furfia dix imur.

Carpuc aenfeitce, ḋno, da trian faiger co herpuc noige do caċ cata, ocus do tac dire condaṫ da .uíí. cumal ina guin, ocus a leṫ ina digain.
Imtha famlaiḋ facart aenfeitche; if cumal itir aṫa caċ nae, con da trian .uii. cumala do mac cleirech aenfeitḋe.

If a trian ḋno, fegdai na graḋai aenfeitce frir na graḋa oige, do caċ foġail, itir derġbem ocus banbeim cnocbeim, ocus farugiḋ; ocus imcheimn itir ni ber ar aenlur ocus na ba ar aenlur, amail if rubrad a ngraḋaib oige.

Erpuc aiṫiġige, ḋno, da trian faiger co herpuc naenfeitce; .ix. cumala ocus da bai ina guin; leṫ riaċ a gona ina digain, ocus ina farugaḋ.

Imtha famlaiḋ facart aiṫiġe; if cumal itir aṫa ocus erpuc aiṫrige.

every time that he is reproached with the blemish[a] in a crowd, to the end of three years; from that out, it is a 'cumhal' in public for it *that is due*, unless he forgives him.

[a] Ir. *Blemish.*

If it be unintentional, it is half seven 'cumhals' *that is paid* for it (*the wound*).

If it be a white sudden blow, it is a fourth part of seven cumhals' *that is paid* for it.

If any of his hair is pulled off, there is a 'sed *due* for every hair of it to twenty hairs.

If he be suddenly caught, to grasp his hand or his clothes, or to deprive him of his bell, half the fine for wounding him is *to be paid* for it. Others say that it (*the penalty*) is half the debt of insult to him.

The virgin priest now is second to the virgin bishop. It is a 'cumhal' that is between their 'dire'-fines in every trespass that is committed against them, and in every case of distinction (*separate case*). It is so with every grade of virginity until it comes to be *the case of* a virgin cleric, so that there are seven 'cumhals' *due* for wounding him, or a victim; but it is not any victim, but seven 'cumhals' *a victim* that is paid for it, to buy off the people or the guilty person who committed the crime; and if he is one of the original race *of the district* and of a free family, half the fine for wounding him, is paid for insulting him, ut supra dix*imus*.

As to a bishop of one wife, now; he reaches to two-thirds of the fine to a virgin bishop in every case of distinction, and in every 'dire'-fine, so that it is seven *that are due* 'cumhals' for wounding him, and the half for insulting him.

It is the same with the priest of one wife; it is a 'cumhal' also that is for each of them, so that it is two thirds of seven 'cumhals' that *are paid* for the cleric of one wife.

It is to the extent of a third now, the grades of one wife reach to the grades of virginity, in every trespass, whether[b] a red blow and a lump blow, and violation; and graduating between the thing that is sudden, and that is not sudden, as was said in *the case* of the virgin grades.

[b] Ir. *Between.*

As to a penitent bishop now; to the extent of two thirds he reaches to a bishop of one wife: nine 'cumhals' and two cows *are the penalty* for wounding him; half the fine for wounding him *is paid* for insulting him, and for violating *his protection.*

It is the same with a penitent priest; it is a 'cumhal' that is between him and the penitent bishop.

Sequel to Crith Gabhlach. Imṫa ramlaiḋ cach graḋ arar dia raile co dia, ir cumaḋ itir aṫa; condat teora cumala a nguin mic cleirig aithrige, ocus a leṫ ina diguin. Et comdire dno, ocus mac cleirig biti itir tuaiṫ ocus eclais, cin guin cin gait; ocus it da trian fegda na graḋa aithrige frir na graḋa aenfeitche do cach cáta ocus do cac díre itir ḋelcoḋ fola ocus banbém ocus deargbéim, amail ir rubraḋ.

Ataat tri haithlaich i neclais .i. ahlaech ar a tabair anmcara a ṫeirt, ocus racarbuic bir a fír aénfaiḋ eclara, cin comus coire na laime. Ir o graḋ oige do renaru. Ir comdire fri mac cléirech noige; condat .uii. cumula ina guin, ocus ir comdire do cach cáta olchena, ocus telcoḋ fola ocus banbeim.

Athlaech ara tabuir a tert nad narcnai racarbuic, cad aċt da trian rogaig corin athlaech tuirech. Athlaech aile, do beir crich fria tola, ocus do taet co cleirchiu iniu, na tabair anmcara a teirt. Da trian raigear cus in aṫlaech medonach.

Na ba machtad la nech comdire don[a] athlaechuib far noige, mad beiṫ dia feirc la dia, ocus di met a raethair, mat comlina a ferta, no mat lia, amail do boi petar ocus pol fri heoin, ocus amail ro boi antan ocus naptan; Ut dicit scriptura, "ubi habundabit dilectum, super habundabit gratia."

Ocht cumala in díri raigef erpuc oige, uii. cumala di racart oige. ui. cumala din gruid tanuigiu. Imda ramlaiḋ caċ graḋ arar diarraile co diad; ir cuimal itir cac nae; conad cumal i ndírie hreóit mic cléirig oige.

Da trian raigef errac aentreitde co herrac noige; condat .u. cumala ocus da bai i ndirie a reoit erpuic aenfeitdi. It da trian raigef inaile.

It is the same with every grade that grows above another, unto the end, it is a 'cumhal' that is between them; so that it is three 'cumhals' that are paid for wounding a penitent cleric (or clerical student), and half thereof for insulting him. He is of the same 'dire'-fine now with the clerics (or clerical students) who are between the laity and the church, not being guilty of wounding or theft; and it is to the extent of two thirds the penitent grades reach unto the grades of one wife, in every case of distinction, and in every 'dire'-fine between shedding of blood and a white blow and a red blow, as has been said.

There are three *kinds of* lay recluses in a church, i.e. a lay recluse upon whom a soul-friend pronounces his character *of approval*, and *who goes to* the sacrament, who is in the true unity of a church, without power of foot or hand. It is as a grade of virginity he is paid *fines*. He is of equal 'dire'-fine with a virgin clerical student; so that there are seven cumhals for wounding him, and he is of equal 'dire'-fine with him in every dignity besides, and shedding of blood, and white blow.

A lay recluse upon whom he pronounces his character, who does not go to the sacrament, it is but two thirds he reaches to the first lay recluse. Another lay recluse *is he* who puts bounds to his passions, and who goes to the clergy at this day, upon whom a soul-friend does not pronounce his character (or recommendation). To *the extent of* two thirds he reaches unto the middle lay recluse.

A person should not wonder that there should be an equal 'dire'-fine for the lay recluses who are without virginity, if they be beloved of God, and their works great, if their miracles are as numerous, or if they are more numerous, in the same way that Peter and Paul were to John, and in the same way Anthony and Martin were; ut dixit Scriptura, "ubi habundabit dilechtum super habundabit gratia."

Eight 'cumhals are paid as the 'dire'-fine of a virgin bishop, seven 'cumhals' to a priest, six 'cumhals' to the grade second to him. It is the same with every grade which grows above another to the last; it is a 'cumhal' that is between every two of them; so that it is a 'cumhal' that is paid as the 'dire'-fine for the 'sed' of a virgin clerical student.

To two thirds the bishop of one wife reaches unto a virgin bishop; so that two 'cumals' and two cows are *paid* as the 'dire'-fine for the 'sed' of a bishop of one wife. It is to two thirds the rest advance.

Sequel to Crith Gabhlach.

In a cumal fímthech, conda ceithri .l. ait aidche do pennuit di mac cleirech aenfeithe a noíre a feoit.

Imtha famlaid erpuc aithrige; it da thrian faigeb co herpuc aenfeithe do dire a feoit; condat teora cumala ocus .iiii. bai a noiri feoit erbuic aithrige. It dá thrian do cach fri araill co rice deaid. Ina cumal fímthech, condat thri .l. at aidce do mac cleirech aithrige i noíre a feoit.

Aithech ara tabair anmcara ocus facaid teirt comdíre a feoit fri mac cleirech noigi .i. cumal doíb. Aithech ele dno, comdire a feoit fri mac cleirech noige; .l. at aidce doíb. Aithech ele dno, comdíre a feoit fri mac cleirech naithrige, thri caecait aidche doíb.

It is in 'cumhals' they are computed, so that it is four times fifty nights of penance *that are due* from a clerical student of one wife as 'dire'-fine for[a] his sed. SEQUEL TO CRITH GABHLACH.

It is the same with the repentant bishop; it is to *the extent of* two thirds he reaches to a bishop of one wife as to 'dire'-fine for his 'sed'; so that it is three 'cumhals' and three cows *that are paid* as the 'dire'-fine of a repentant bishop. It is two thirds to each with the other till it comes to the last. It is in 'cumhals' they are computed, so that there are three times fifty nights *of penance* due by the repentant clerical student as the 'dire'-fine for his 'sed.'

[a] Ir. *In lieu of.*

As to a lay recluse of whom a soul-friend and a priest gave a character; his 'sed' is of equal 'dire'-fine with that of the virgin clerical student, i.e. a 'cumhal' for them. *There is* another lay recluse now; the 'dire'-fine for his 'sed' is equal to that of a virgin clerical student: four times fifty nights *are due* to them. *There is* another lay recluse now; the 'dire'-fine of his 'sed' is equal to that of a repentant clerical student; three times fifty nights *are due* for them.

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SUCCESSION.

Succession.

Sinnsear la fine, seabta la flaith, ecna la heclais.

Ocus, mar adeir "ar is dagaltrad beda brigaib fri senbretha, ara cae borb ecna i nordaib eclaise ara cae aitech, flaith, ara cae oglach finnfir;" .i. eirgi no ceimnigar in ti is oiss in ti is fine ar in frigi, no ar an aidaine, no is in flaithus ngeilfine. Mar adeir; "Focrena aos la feine; ar in da aire do comcenel ber cutruma feib ocus tocus, ocus in ti ber fine isé do fés." Ocus; "oligid sean fogaire, ocus oligid finnsear saos togda." Ocus; "do fes ae aesaib, ocus do fes liad (no liar) labra," .i. na frigi mara comaes, comaith iat, is crannchor acusbra um an frigi; ocus ma fine neach fes a cheile dib is a dul inn. Ocus; tatat lium dair log finnfir, tus naidbrina, tus nuallabra, togo do shannaib, do slathaib do buar, do bith tuirib, do flaith, do talmain. Is de atá, shannaid ógor, ocus dogoga finnsear. Ocus; ni cuirther cuairt for gablaib fine mana tabra dia do neoch dib in trunnrad; act iar febar do goathar ocus a dogarthor .i. deide ar na cuirther in cuairt; ma la haon gabail no mana bé do na gablaib damna aba bar ferr, cid coitcenn doib. Deigi dno, ar curtar .i. coitcennar ocus comaidbur .i. ceall iar ngrian, ocus fine erluma ima leith; is iar sreib do gablaib imatbiat .i. is iar se na gabla fir bir fri don gabail eile; ar is iar nairilliud do diagat ina coimri, ocus is iar febar is na gabla fadeirin, ocus is iar seabar in graid imorro,

[1] The following remark by the Scribe is prefixed to this short tract:—

"Dar in lebar so mad fedaim a nainm dia berat in finnsear roim in fogar ann gad gne mar a deirid na oligti so sir. Tairis fri do den trecumurc da nolithib trit a cheile.

SUCCESSION.

"The senior with the family, dignity with the chief, wisdom with the church."

And, as it says: "For well fostered was vigorous life in the old judgments, for ignorance was set aside for wisdom in the orders of the church, a boor was set aside for a chief, the junior was set aside for the senior," i.e. the person who is junior shall rise or walk out of the kingship, or the abbacy, or the 'geilfine'-chieftainship before the person who is senior. As it says: "Age is rewarded by the Feini," for where there are two chiefs of the same family who are of equal dignity and property, the senior shall take precedence. And *again:* "The old man is entitled to good maintenance, and the senior is entitled to noble election." And; "science takes precedence of age, and greyness takes precedence in speaking," that is, if the kings be equally old and good, lots are to be cast between them respecting the kingship; but if one of them is older than the other, he shall go into it. And; "I have for age the price of the senior, beginning of speech, beginning of utterance, choice of divisions, of stock, of kine, of 'bith'-tuisi, of raiment, of land." From this is *derived the maxim,* "The junior shares, and the senior is elected." And; "there is no enquiry *by lot* among the branches of the family if God has endowed one of them in particular; but he is rejected or chosen according to his goodness, i.e. there are two things for which the enquiry is not made *by lot;* if it belongs to one branch, or if there be not of the *different* branches to whom it is in common a better 'materies' of an abbot. There are two reasons also for which the search is made, i.e. commonness and equal 'materies' i.e. a 'cill'-church to which the tribe of the land[a] and the tribe of the patron saint succeed equally, they shall succeed in turns about, i.e. it is after the turn of the true branch the other branch shall have its turn; for it is according to desert they come into power, and it is according to the goodness of the branch itself,

[a] Ir. *After he land.*

By this book, if I can, in the name of God, I will bring the senior before the junior in every case, as these laws down here state. Beyond this I will make an intermixture of their laws altogether."

Succession.

don gabail berí e in rigi ire téit innti .i. in ti ir fearr irin gabail sin. Ocus; cenn caich iar nderaid a fine, .i. iarum gurab do réir na fine ber an cach ir cenn.

Bera fruithe; bera huairli; bera trebairi; bera gaithe; bera ecna; bera fochraiti co fior; bera treiri fri himfoichedh; bera forusfa fri hurnaidh fomaine, ocus domaine. Ocus, imdith gach corp a memra, ma focorp, fo gnimaib, foberaid, slan, forbaltach, focumar. Corp ca crich a fine. Ni bí nach corp cen cenn.

Bera fruithe .i. a naoir no a cenel. Bera huairli .i. a ngraid. Bera trebairi .i. im ar ocus im buain. Bera gaithe .i. a necna no a naicne. Bera ecna .i. a leigenn. Bera fochraiti co fior .i. ber dég cairdiu go lucht fiora .i. cana muinntir tar crich a gabail lair. Bera treiri fri himfoichedh .i. fri eimfuaitri do chach dib. Bera forusfa fri hurnaidh fomaine .i. dibaid. Ocus domaine .i. cina. Ocus imdith gach corp a memra .i. ir eimdina gach cenn a mod foridnech. Ma focorp .i. ma dég cenel é sin gu forgeall, sin gurabanaire. Fo gnimaib .i. sin guin sin forlorcad. Sobergach .i. sin gait sin brait. Slan .i. sin cinta. Sorbaltach .i. um oin ocus im aithne ocus im airleca. Socumar .i. im echaib im frianaib. Corp ca crich a fine .i. ired ir corp don cach ir cenn a fine. Ni bí nach corp cen cenn .i. dib fein forgra do frir dligid.

Ocus mar adeir; finechus gach folebach, ni forbrigtar nach indlegra, tres gach gaod; maith gach ben genmnaid na bi druth; maith gach mac ber gor dia aithair; maith gach mac ber gor dia eclais; ni hinairbtar uaithe cia dor necma for corpam; ar ni duidmenar cuir neime, ar innramailter fri bera cairdiu nach duidmed (.i. dia tarda do lam do rodh in cairdiu * *); nach duidmen do nuidmenar ir duarlucad do nuarluicter uad .i. nach innraigid innraigear nech cuigi, ir gia ga gia uada é. Imda ramlaid in tinnlighedh cornar righi no abdaine, ir ro fiadb uada e. Ocus; ara ferer tecta rig ba romaineach romaineach .i. roagallaim gin morbadad. Ba ro fiadmar .i. gurab mor a fiad do ceilib. Ba ro maod i macaib de .i. fri macaib eclais.

[1] *That thou mayest know.*—This seems part of the 'teagarg fiodga,' or "Instruction of a King" ascribed to Cormac Mac Airt, King of Ireland, A.D. 250. It is somewhat in the manner of the first part of "The Book of Aicill." *Vide* Ancient Laws of Ireland, vol. 3, pp. 85, 107, &c.

and it is according to the goodness of the grade also, and the most worthy person of the branch shall go into it, i.e. the best person of that branch. And "the head of all according to the 'dera' of the tribe," i.e. that every one who is a head should be afterwards according to the family.

Who is the noblest; who is the highest; who is the wealthiest; the shrewdest; the wisest; who is popular as to compurgation; who is most powerful to sue; the most firm to sue for profits and losses. And; every body defends its members, if a goodly body, well-deeded, well-moralled, affluent, capable. The body of each is his tribe. There is no body without a head.

Who is the noblest, i.e. in age or in family. Who is the highest, i.e. in grade. Who is the wealthiest, i.e. in ploughing and reaping. The shrewdest, i.e. in wisdom or in mind. The wisest, i.e. in learning. Who is popular as to compurgation, i.e. who has good friends with compurgators, i.e. good friends outside the territory adhering to him. Who is most powerful to sue, i.e. to prosecute for each of them. The most firm to sue for profits, i.e. of the 'dibadh'-property. And losses, i.e. liabilities. And, every body defends its members, i.e. every head quickly defends its relieving servitors. If a goodly body, i.e. if it be of a goodly race, without false decision, without false witness. Well-deeded, i.e. without wounding, without burning. Well-moralled, i.e. without thieving, without robbery. Sound, i.e. without crime. Affluent, i.e. as to lending and giving in charge and on pledge, or for interest. Capable, i.e. as to horses and bridles. The body of each is his tribe, i.e. the body of each person who is head is his tribe. There is no body without a head, i.e. of themselves (*the tribe*), over them according to law.

And as it says: "Every bedfellow is a tribeman; nothing unlawful is a loss; every wise man is mighty; good is every chaste woman who is not lecherous; good is every son who is obedient to his father; good is every monk who is obedient to his church; he shall not be expelled therefrom, though it should be contested with him; for the contracts against the 'nemhedh'-person are not binding, for every binding is likened unto the manner of the chariot (i.e. if thou puttest thy hand to the wheel of the chariot *it escapes thee*) every closing up that is made is an escape from him; i.e. every approach one makes towards it, the farther and the farther it is from him. And thus also is the unlawful person who contests a chieftainship or an abbacy, *the nearer he comes to the law*, the farther is it from him." And, "That thou mayest know,[1] the right qualifications of a king who is wealthy and affluent," i.e. affability without haughtiness. "Let him give much stock," i.e. let his stock to his tenants be great. "Let him be kind to the sons of God," i.e. to the sons of the church.

Succession.

Ocus; a ua cuinn, a cormaic, ol coirpri, cia ar ngebtar flaith for tuaith? Nin—Cc feib croda ocus cenoil, ocus ceille ocus eagnga, ocus oirdain ocus urlabra; a maith ocus a ngair, ocus a nirt, ocus a rochraid ocus imgona gabthar.

Ocus; anmerach cach moctaid, .i. ir fir lium meremnu flathamnara don tí do ni cach domogud.

Ocus; umus cumdaid fine, .i. decaib ocus dedach ocus do gach uile tabartus.
Ocus; barir flaith uar cach, ocus tairech cacha fine ar do nethad feib ocus bercna .i. na tri connaigirmib.

Ocus; ba fir gnae no aidbinn gan guin indetbiri, ocus gan gaid idir. No, ir dó ir coir tuigeacht na fine, don ti ir ferir tochcus fri hurnaid mbiata.

Ocus; mar adeir, forga gach fine a forgnice a fallrgad .i. ire ir ferir ir fir togaid don fine in ti forcuchar uatha in tiumad innoligid fcuchar cucu, no fcuchus fal dochraite dib.

Ocus adeir; cenn drom cach main, .i. ir drom leir a cenn in ti gabar maoine in frata.
Ocus; ailid gach fraith a fomaine.
Ocus mar adeir; ni fiad for aic aor; ni haor confoglatar finntiu; ni haor nennta nemtera.

Ocus; dofed og iar ngul .i. foillri.

Ocus; fruithem feib aor.
Ocus; ni ti finnfear fria norar, muna forcratar.

Ocus; na fortéd la fainnt fluinti on flaithear .i. cemad fanntaig lair.
Ocus; do faoi crib combruth omna otoch focraiti.

Ocus; adguiter na feagar nad aiccither corafar coregar co fuartar naidm fonaim for naidm.

And; "O grandson of Conn O'Cormac, said Coirpre, for what is a prince selected over a country? Answer—From the goodness of his form and race, and sense and learning, and dignity, and utterance; he is selected for his goodness, and for his wisdom, and strength, and forces, and valour in fighting."

And; every powerful man,[1] is to be estimated, i.e. I deem it right that chieftainship should be ceded to the person who is able to master all.

And; "He sustains the tribe," i.e. with horses, and raiment, and every kind of gifts.

And; "The chief overtops all," and, "he is the chief of every tribe who is constituted by his dignity and customary law," i.e. the having the three immoveable things.

And; "his good knowledge ('ba fir') pleasant or delightful ('gnae') who has not committed any unnecessary killing nor any theft at all." Or, the person to whom the chieftainship of the tribe is due by right is he who has best property to bestow food.

And, where it says; "The choice of each tribe who removes from them the amount of their illegality," i.e. he is the best man to be chosen by the tribe, who removes from them the great amount of illegality which came upon them, or who removes the barrier of oppression from them.

And, it says: "a heavy each property," i.e. he deems his head heavy who receives the wealth of the stock.

And; "every stock deserves profit in return."

And, as it says: "It is not the tooth of old age that merits it; it is not age that shares the tribe-lands; it is not the age of nettles that gives them venom."

And: "Youth takes precedence of dotage," i.e. when the old man loses the light *of reason.*

And: "Qualification is nobler than age."

And: "The senior does not go before the junior, unless he is wealthier."

And: "Let him not go, through covetousness of the name, into the chieftainship," i.e. though he should covet it.

And: "Quickly is he set aside who was elected by the pressure of the fear of shouting hosts."

And: "it is requested that his claim be not confirmed until he is sued, pursued, and prosecuted. Let the contract of an indigent surety be made firm."

[1] *Powerful man.* In H. 3, 18, p. 389 *a*, 'moċtaiu' is explained 'fer ir seċ son fine, the best man of the tribe (or family).'

Succession.

Et meilior est puer parens quam senex stultus, .i.. is fessi in tog ecnaid na in sen bonb a necna.

Ocus; Cidbe droglaib boaiseċ decma ima leṫ, cid fine naċ ae dib araile, in gnad ber fuisthe (.i. im toċus), ise dorṡo.

Ocus; Ni beis ech lan eneclann tar ailchib in domain. Sic flaith gin toċus.

Ocus; ar is a loċtaib coisrib inlongathar eathar; sic flaiṫ.

Ocus; claon caċ leṫ arid.

Ocus: lengaċ gaċ nellaċ.

Ocus; do ba fola flaiṫ; filliter tri selba; insegar digbad .i. dibaithes ae uair in fir ó airnetes fir dibad a flaṫamnais fris.

Ocus; fithnaisi gaċ nolc iarmobi trius.

Ocus; tulaċ tigearnais i tarrsaṫar triar.

Ocus; ar berar iubail a comdiden; tri comarbaib cengar

Ocus; dombersar mes maineċ .i. tabais meisamnuġ go hoġ fos gaċ ndume ara main.

Ocus; do baide muis maca mincoisthar mesgagra fo lesgaib lana. Sic ised fri huaral.

Ocus; ni fuiṙe dibad dal don aon mes.

Ocus; nis necnaisc moġa miditer dise .i. ni mesamnaigann an briṫem eneclann a flaṫamnara do neoċ a necmais a toċura.

Ocus; consoġlatar dise itis min, ocus nin, ocus mainbtigi, itis gnad, ocus gnad, ocus oiden, ocus arid (.i. in ri), itis maoṫ, ocus mear, ocus meisdeċ, ar nis ninann crann consreṫed saoise .i. amail naċ inann cain sreṫar dise i mbeim na crann itis aisreda sreda ocus aṫaċa sreda; sic flaiṫ gin toċus.

[1] *Disease of evils.* Unless his father and grandfather were good men his son is a 'fithisi uilc' (the disease of evil) afterwards, H. 4, 22 (C. 2027).

[2] *Hill of chieftainship.* If his father and his grandfather were chiefs, and that he is a chief himself, he is "a hill of chieftainship" afterwards.

And; "Melior est puer sapiens quam senex stultus," i.e. better is the wise youth than the old ignorant of wisdom.

And; "Whatever number of the divisions of the 'bo-aires' happens to be contending *for headship* though one of them be older than the others, the grade that is most wealthy, i.e. in point of wealth, it is it that takes precedence."

And; "A horse does not bear his burden over dreaded rocks. Thus the chief without wealth."

And; "For it is from proper parties the vessel is manned;" so the chief.

And; "Every thing uneven is biassed."

And; "Every wily person is unsteady."

And; "The qualification of a chief are taken away; three possessions turned off. The 'dibadh' is sought, i.e. the noble quality of the man is taken away, when it is ascertained that his chieftainship is truly separated from him."

And; "He is the disease of evils[1] after three persons."

And; "He is a hill a chieftainship[2] in the third person."

And; "For it gives prescription of acknowledgment;[3] three heirs have succeeded one another."

And; "He is estimated according to his wealth," i.e. there is a perfect estimation made of every one by his wealth.

And; "The sea overwhelmed the smooth bordered plain of 'Mesgaghra' under its full watery plains." Thus it is with a noble, *he overwhelms all beneath him.*

And; "A meeting does not estimate the same 'dibadh' for every one."

And; "It is not in the absence of property 'dire'-fine is estimated," i.e. the Brehon does not estimate the honor-price of his lordship for a person in the absence of his property.

And; "The 'dire'-fine is distributed according to dignity, extent, and wealth, according to grade, and grade and order, and elevation (i.e. the king), according to foolishness, and lunacy, and whoredom, for "the trees which attain to nobleness are not all the same," i.e. as 'dire'-fine does not equally run for the cutting of the trees as regards the noble trees and the common trees; so a chief without property.

3 *Prescription of acknowledgment.* It forms a period of prescription if the lordship has continued in the same family for three generations or successions.

Succession. Ocus ; feabta la flaith .i. ma tait .u. daor bothaigh no .x. faor-bothaigh dimaircra ag in ti ir oigh, ir a dul ir in flaithius fo cedoir.

Ocus ; forath ni acair acht beo-cainneall a flaitheas .i. noca nacairthar do teicht ir in flaitheas fo cedoir, acht an ti dana taithnemach é amail ced mbi .i. mac flatha, ocus ua airoile.

Ocus ; do batar ae uair .i. mana flaith a athair ocus a fenathair, cid comcenel a buna, dibaid a flaith aire.

Ocus ; ina fluinter flaith frith dibaid .i. fri faogal triair.

Ocus ; flaith athair .i. aitheć cineoil na bi flaith athar na fenathar. Ocus nir orda dligedh do rin ać derg cairna ocus faill gin traille, agus airbur cruaid bid, ocus di láa.

Ocus ; fir nanfir .i. in ti ir anfir im toćcur.

Ocus ; ni bi ri fri gin fola .i. do ceilib ocus buaib.

Ocus ; ni fri tuath og na biad geill .i. ced manćaine .i. a dama cana imcing do crich .i. ēē ceimnigthur tar an crich do denam cairde; noć dligid boin co tine cać oiba tar a cuinnġell on cenn combi cedaib, o bega co mora. .xxx. traigedh a tec ; tri fićt bo ina tigh ; tri traigedh .xx. a ithcha. Ire fer innsin .i. ri, dligedh enechann ocus dire ocus trebairi ocus log-eneć, ocus dire a thom ghera, ocus a duinn.

Ocus ; ni frig tuath og na biat tri ri tuaithi .i. noca ri tuath ir fiaiti feir muna tuga fe ucca togaidaćta ceilgine do tri ri tuaithi.

Tri ri tuaithi ag ri tuath ; cuic ri tuaithe ag ag ri cuicid ; cuic ri cuicid ag ri erenn, ar a mbeć cir ocus dligedh foraib, ocus tinćor ini teneacairtar fo tin fo taoib dó ; briecána ocus cuilce.

[1] '*Donn*' is explained lordship or theft in C 2801; the chief was entitled to a certain

And; "Qualification with the chief," i.e. if the person who is the most worthy *of his family* has five 'saor'-cottiers or ten 'daor'-cottiers of excess (*over and above the rest*), he is to enter into the chieftainship at once. SUCCESSION

And; "For none but a living candle seeks the chieftainship," i.e. it is sought by none to enter into the chieftainship at first, but the person for whom it shines like a candle, i.e. the son of a chief, and the grandson of another.

And; "They were once noble," i.e. unless his father and grandfather were chiefs, though he may be of the same race as to his origin, his chieftainship is lost to him.

And; "In which it is stated that a chieftainship is lost," i.e. during the ages of three persons.

And; "A plebeian chief," i.e. one of plebeian race, whose father or grandfather was not a chief. And the law orders him but red fleshmeat and fat without being salted, and dried corn as food, and two days . . .

And; "Fir nanfir," i.e. the person who is not a fit witness as to property.

And; "A king without property is no king," i.e. as to tenants and kine.

And; "He is not a king of territories who has not hostages," *unless three kings have given him hostages*, i.e. one hundred 'manchaine,' i.e. his 'cain'-party, when going outside the territory, i.e. when he goes out of the territory to make 'cairde'-regulations; he is entitled to a cow and a salt pig from every townland for making a treaty for them, until he has one hundred both large and small. Thirty feet is the length of his house; *he has* sixty cows in his house; twenty-three feet *is* the length of his kitchen. This is the man, i.e. the king who is entitled to honor-price, and 'dire'-fine, and surety, and honor-price, and to 'dire'-fine for his heavy work and for his 'donn.'[1]

And, "He is not a king of territories who has not three kings of territories *under him*," i.e. he is not to be called a king of territories unless he has given choice selection of tenancy to three kings of territories.

Three kings of a territory are under[a] a king of territories; five kings of territories under[a] the king of a province; five kings of a province under[a] the King of Erin, from whom he has tribute, and law, and furniture, besides i.e. plaids and quilts.

[a] Ir. *With*.

fine for any injury done to any rich article of furniture belonging to him, or for stealing of his property.

Suc-cession

Ar ingna lium sin, ocus so da rad; airse forgill fuiraice ri no abdaine; gin go raib aigi acht arim no éoac ir eneclann ri no airec forgill dó. Ocus for, airse arso aronemid cona tuad tegairg .i. di gni a log bais ari gonac leigann aninnraic do ectrannaib.

Ocus; ni dlegar muca la flaith.

Ocus; dligid raill éean; ocus, corub flaith aithig gairgear dligeo don nec leis bail rigacht dagbail a dualgus cruid eile ach a dualgus ceile; ocus o na ceilib ata raill don flaith; ocus, ceilib tormaigear do gradaib flatha; ocus feoit do gac flaith; ocus for nac ndligann na rith so ní a log a tocar .i. a cruid.

Ataat fecht flatha la feine na dlegait tecta faor giallna na aicille 7 ri.

Ocus; fcuirtar faor felba .i. cuirtar na forir go tocus ir in feronn no ir in flathamnar.

Ocus; fuirimiter t[igernar]do ced cor, sic mac flatha.

Ocus; ar ir anbal gac aon ar tuine tarrnactain .i. ar ir anfial do gac aon tarrnaigter ina tuinid go innoligted; sic flaith gin tocus.

Ocus; maine maine sira fagbaiter .i. do ceilib iar sin.

Ocus; manab a feota faora fernaigter .i. uatha do ceilib.

Ocus; Mac in abaid ir in cill grinn,
Ini cunne for ciall,
Mac in trebti ir in tuaid,
Mac in ri do fnaidm na ngiall.

A mo naire nuallgnaid .d. b. diamba bretham, ni bera dire do neoch so na bi bunadus bid. Di col mor ma conceita airilliden friac for fotha dia fuisigtar la feine.

Fár sine sir nad nfara; airim na bia fochla freimh frid cain cin mecna mer ina dor decmaic .i. ir decmaic mer do beit ar dor mana fuil freimh aigi.

Cerc—Caide an tanfruth? .Nín.—Anfruth adair ocus fenath-

I wonder at this, and that it, this is said: "The 'aire-forgill'-chief deserves a chieftainship or an abbacy; even though he had but his arms or his raiment he shall have the honor-price of a king or of an 'aire-forgill'-chief. And, also, the 'aire-ard'-chief saves the high 'nemhidh'-person with his territory, i.e. the price of his death shelters his king, and prevents them from being plundered by externs.

And: "It is not lawful for a chief to have swine."

And: "He is entitled to fat;" and, "the law styles that person a plebeian-chief who wishes to obtain a chieftainship in right of any other property except in right of tenants; and, by the tenants is fleshmeat supplied to the chie;" and "it is tenants that advance the grades of chiefs;" and "'seds' to every chief;" and "that these kings are not entitled to anything in right of their property, i.e. their cattle."

"There are seven chiefs with the 'Feini' who are not entitled to 'saor-giallna'-service or 'daor-giallna'-service," &c.

And; "scurthur ꞇaoꞅ ꞇeꞗbα," i.e. the inferior men with property are put into the land, or the chieftainship.

And; "lordship is compared to first contract;" thus, the son of a chief, &c.

And: "For it is shameful to anyone to be caught in unjust possession," i.e. for it is shameful to anyone to be caught in unlawful possession; thus, a chief without property.

And: "unless true property is obtained," by the tenants truly.

And: "unless they are noble 'seds' that are distributed, i.e. by him to the tenants,"

And: "The son of the abbot in the pleasant church
"A fact established by sense,
"The son of the husbandman in the territory,
"The son of the king to bind the hostages."

O my Nairi of the beautiful aspect (ɔ. b.) if thou be a judge, thou shouldest not give 'dire'-fine to one under whom there is no foundation of food *tribute*. It would be a great violation if fines were adjudged upon a title not found according to the Feini.

The tribe of a man is waste where is no growth; where there is no place for the root, where the fair tree wants a root, it is difficult to have fruit on its branches, i.e. it is difficult to have fruit on its branches unless it has a root.

Question—What is the 'ansruth'-poet? Answer. His father and his grandfather were 'ansruth'-poets,' for every grade whatever,

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air ar nach grad do cuirin itir flaith ocus file dia fgara fria feib fri faogal trir; co roib diabhal feibe no frichnama lair, ni ti a cosrand fri cach frir i tarrraigter fri faogal trir.

Tulac tigearnair a t[igearnar] triar, ocus urolgiro ri iar tri flata f[laitheamhnus].

Aingiuth triath .i. aingiut athair ocus a seanathair, ocus aingiuth feirin. An a airceval ocus a frithnam, ocus fucar dire caich ar a dan becc mor nexamail ber aigi, cid mor cid beg .i. do bretemnartar eneclann do cach.

Ocus; amail folaig mer airilleo aro .i. amail imfuilngter airilleo ir faoi meremnaigter eneclann doo.

Manab eirinnraic anfoltad, errad tuaithe aro raigeo bretem do mer coir gada dula dein .i. ir do ro raigeo in bretem do meremnugad in dire ir coir in gad duil.

Ocus; a Morainn, a maoinig, a modtaig, comortar uait dire tedta gad nemtera nair.

Drengait ina cataib .i. dreimnidar eneclann doib fo uairli a todus ocus a ngrad.

Ocus; cach nemi ina foltaib cora .i. im todus ocus im innracus.

Ocus; a morainn a maoinig, a modtaig, merar gad aon iar nairilltin, fuirmiter cach iar na miadh, miad cad iar na cgrad.

Ocus; forerinar frir focal .i. ir mait rernaiter in fudin focal fo.

Aingidar gad necnaithi .i. taingidar é o biar cad ga eccnad, im aoir ocus im innracus.

Ocus; ecnaidi gad naimmed .i. ir ecnaidi ir in flaitemnus é ó bor ainmed é gin todus.

Ocus; ni lenad faidlenna faide .i. noda lenad a gnaited do na hib lennaib, o bentar dib iad; gic cé do bí, muna fuil anora noda ferde friam.

Ocus; ni faol feidm foirne fainnel far .i. noda niumfuilgenn fi nert a foirne uirre o biar far .i. imda famlaid in ti big gin todus, ni fuilgenn in duad.

[1] *After three Kings.*—The text of this paragraph is very defective.

whether chief or poet, if he parts with his qualification during the ages of three persons, his lot is not equal to those who are found in possession of their qualification during the ages of three persons until they double their qualification or their service.

Hill of lordship is *established* after three have followed in succession, and the privilege of *succeeding* a king after three kings.[1]

An 'Ansruth'-poet now, i.e. his father and his grandfather were 'ansruth'-poets, and he is an 'ansruth'-poet himself. Noble his honor-price and his superintendence, and he gets 'dire'-fine out of every poem, small, large, or various which he has, whether large or small, i.e. honor-price has been adjudged to each *of his poems*.

And: "As he sustains the estimation of high wages," i.e. as he sustains the merit it is accordingly honor-price is estimated for him.

"Unless he is an unqualified wanton, unworthy of a territory, he may seek the Brehon to estimate the 'dire'-fine which is proper for each animal," i.e. it is he that seeks the Brehon to estimate the 'dire'-fine that is due for each animal.

And; "O Morann, O wealthy dignitary, let the lawful 'dire'-fine of each noble dignity be adjusted by thee."

"They advance into their dignities," i.e. honor-price is graduated for them according to the nobleness of their property and their grade.

And; "Every 'neimhedh'-person *should be* possessed of his proper qualifications," i.e. as to property and worthiness.

And; O morann, O wealthy dignitary, every one is estimated according to his desert, every one is placed *at the court or banquet* according to his dignity, every one's dignity is according to his grade.

And; "A constant word (*by-word*) is circulated," i.e. it is well this constant word is spread about.

And; "Every person complained of is reproached," i.e. he is reproached when all are complaining of him as to age and worthiness.

And; "Every blemished person is complained of," i.e. he is complained of *for being* in the chieftainship, when he is blemished, and without property.

And; "a hem does not follow mantles," i.e. their threads do not follow the mantles when they are cut off them; so, though a man *has had means*, if he has them not now, he is no better thereof.

And, "A waste cannot support its wandering tribe," i.e. it cannot support the weight of its colony, when it is waste, i.e. so also is the person who is without property. He is not the better of having had it before.

Succession. Ocus; rigu na fuigliu go fond .i. gin eneclann don tí bis ar faon elo gin tocus.

Ocus; aderar maith maithib, aderor olc anmainib .i. aittairctear olc do na holcaib, dona hinnoligedib na dein maith do na mainib.

Ocus; is a fendar mor conamer ar na fuctha maith do olc, ocus olc do maith .i. eneclann beg ocus eneclann mor. Ocus; is ann do hairled ri ocus aithech, fugan ocus amrugan, faor ocus daor, foitdech, ocus doitdeg, fona ocus dona; fon[a] .i. fo ana aigi, im tocus ocus im clainn. Ocus; do gabur an faor foitdeg fobaid fon, ocus do gabar an daor. Ocus; is ann fo hairled dire caich fo miad.

Ocus; feim ainim ognaiti mana ciarb ceirt. Ni aile nach feirc urrainn la feine .i. noca noligann in tí bis ferc gan tocus gan innracus, uaral roinn fmachta na log oderusa do reir in fenechair. Ocus; ar nach aon og na bi a tocus a tuaith ni aile oderus na iardad la feine.

Cor .i. itir dis. Cunnrad .i. ni réis a diagait cuinn ocus fradaba ocus isi a ndeitbir.

Ni tí sinnsear fria norar mana fursrairdter, ocus araile.

Sinnsear ocus orar ocus eneclann do mer do cach.

And; "Let no wandering men pass judgment," i.e. there shall be no honor-price for the person who is wandering about without property.

And; "It renders good for property well disposed of, it renders evil for ill-disposed of property," i.e. evil is rendered unto the wicked, *i.e.* to the unlawful persons who do not do good with their property.

And, "It is in the 'Senchus Mór' it was enacted that good should not be given to bad, nor bad to good," i.e. small honor-price and large honor-price. And, "It is in it, it was enacted *that there should be* king and peasant, queen and non-queen, noble and ignoble, wealthy and not wealthy, prosperous and not prosperous." Prosperous, i.e. good ('so') property ('ana') i.e. he has goodly property, i.e. in property and children. And; "there is found the noble wealthy, rich and prosperous; and there is found the ignoble, there is found an daer, &c." And, "It is in it, it was ordained that the '*dire*'-fine of each person should be according to his dignity."

And, "*Seim ainim og naithi, mana ciast ceird*": "No unproductive person merits a share with the Feini," i.e. the person who is barren, without property, without worthiness, does not merit a noble share of 'smacht'-fine nor sick maintenance, according to the 'Fenechus'-law. And "Because any one who has not his property in the territory does not merit sick maintenance or full peace with the Feini."

A contract, i.e. between two persons. A covenant, a thing confirmed by sane adults and guarantees, and this is difference[1] between them.

The senior goes not before the junior, unless he (*the senior*) is proclaimed, or otherwise disqualified.

Senior and junior, and honor-price are to be estimated for all.

[1] *The difference.* That is, this is the difference between the two terms: A 'cor' is a bargain made between two persons without bond or security; a 'cunnradh' is a guaranteed contract.

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